

Government of the United States of America to confer the rights and duties of citizenship upon those people of Filipino birth who can qualify in the same manner as the peoples of other lands who are afforded the opportunity of becoming citizens of the United States; to the Committee on Foreign Affairs.

3730. By Mr. JARRETT: Petition of the Young Women's Bible Class, the Men's Bible Class, and Young Men's Bible Class of the First Methodist Episcopal Church of Warren, Pa., endorsing the Ludlow amendment; to the Committee on the Judiciary.

3731. Also, petition of citizens of Sharon, Pa., endorsing the peace amendment, or Ludlow amendment; to the Committee on the Judiciary.

3732. Also, petition of members of the Berea Evangelical Lutheran Church of Freehold Township, Warren County, Pa., endorsing the Ludlow amendment; to the Committee on the Judiciary.

3733. By Mr. LUTHER A. JOHNSON: Petition of the Corsicana Nature Study Club, Mrs. J. E. McClung, corresponding secretary, opposing Senate bill 2970, empowering the President to transfer the National Forest Service, Soil Conservation Service, and the Biological Survey from the Department of Agriculture to the Department of the Interior; to the Select Committee on Government Organization.

3734. Also, petition of R. T. Keirse, of Easterly, Tex., favoring increased pay for enlisted men in the Army; to the Committee on Military Affairs.

3735. By Mr. KRAMER: Resolution of the Board of Supervisors of the County of Los Angeles, State of California, pertaining to granting Federal aid for flood control, etc.; to the Committee on Appropriations.

3736. By Mr. O'NEILL of New Jersey: Petition of the Lightfoot Schultz Co., protesting against any tax on toilet soap; to the Committee on Ways and Means.

3737. Also, petition of the Jersey Match Co., protesting against discriminatory tax; to the Committee on Ways and Means.

3738. By Mr. RUTHERFORD: Petition of residents of Susquehanna County, Pa., favoring House Joint Resolution 199; to the Committee on the Judiciary.

3739. By Mr. SANDERS: Petition of citizens of Athens and Overton, Tex., protesting against the entrance of the United States into any foreign wars; to the Committee on Foreign Affairs.

3740. By Mr. THURSTON: Petition of citizens of Sigourney, Iowa, protesting against the levying of excise or processing taxes on primary food products; to the Committee on Ways and Means.

SENATE

FRIDAY, JANUARY 7, 1938

(Legislative day of Wednesday, January 5, 1938)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

ELMER THOMAS, a Senator from the State of Oklahoma, appeared in his seat today.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Latta, one of his secretaries.

THE JOURNAL

Mr. BARKLEY. I ask unanimous consent that the Journal of the proceedings of yesterday be approved without reading.

The VICE PRESIDENT. Without objection—

Mr. CONNALLY. I object.

The VICE PRESIDENT. The question is on the amendment, as modified, offered by the Senator from Illinois [Mr. LEWIS] to the amendment reported by the committee to House bill 1507.

Mr. CONNALLY. Mr. President, I inquire what became of the reading of the Journal?

The VICE PRESIDENT. The Journal does not have to be read, the Senate having taken a recess last evening.

CALL OF THE ROLL

Mr. CONNALLY. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

| | | | |
|--------------|----------------|-----------|---------------|
| Adams | Donahey | Lodge | Schwartz |
| Ashurst | Duffy | Logan | Schwellenbach |
| Bailey | Ellender | Loneragan | Sheppard |
| Bankhead | Frazier | Lundeen | Shipstead |
| Barkley | George | McAdoo | Smathers |
| Berry | Gibson | McCarran | Smith |
| Borah | Gillette | McGill | Steiwer |
| Bridges | Glass | McKellar | Thomas, Okla. |
| Brown, Mich. | Graves | McNary | Thomas, Utah |
| Bulkeley | Guffey | Miller | Townsend |
| Bulow | Harrison | Minton | Truman |
| Byrd | Hatch | Murray | Tydings |
| Byrnes | Hayden | Neely | Vandenberg |
| Capper | Herring | Norris | Van Nuys |
| Caraway | Hitchcock | O'Mahoney | Wagner |
| Chavez | Holt | Overton | Walsh |
| Connally | Johnson, Colo. | Pittman | Wheeler |
| Copeland | King | Pope | |
| Davis | La Follette | Reynolds | |
| Dieterich | La Follette | Russell | |

Mr. LEWIS. I announce that the Senator from Rhode Island [Mr. GREEN] and the Senator from Delaware [Mr. HUGHES] are absent because of illness.

The Senator from Maryland [Mr. RADCLIFFE] is absent because of a death in his family.

The Senator from Nebraska [Mr. BURKE] is absent on official business as a member of the committee appointed to investigate certain conditions in Puerto Rico.

The Senator from Florida [Mr. ANDREWS], the Senator from Mississippi [Mr. BILBO], the Senator from Washington [Mr. BONE], the Senator from New Hampshire [Mr. BROWN], the Senator from Missouri [Mr. CLARK], the Senator from Oklahoma [Mr. LEE], the Senator from Connecticut [Mr. MALONEY], and the Senator from New Jersey [Mr. MOORE] are unavoidably detained from the Senate.

Mr. GIBSON. I announce that my colleague the senior Senator from Vermont [Mr. AUSTIN] is necessarily absent on official business by reason of service on a subcommittee of the Judiciary Committee of the Senate. I ask that this announcement stand for all quorum calls during the day.

The VICE PRESIDENT. Seventy-seven Senators have answered to their names. A quorum is present.

REPORT OF SOCIAL SECURITY BOARD

The VICE PRESIDENT laid before the Senate a letter from the Executive Director of the Social Security Board, transmitting, pursuant to law, the annual report of the Board for the fiscal year ended June 30, 1937, which, with the accompanying report, was referred to the Committee on Finance.

OFFICIAL INSPECTION OF VEHICLES

The VICE PRESIDENT laid before the Senate a letter from the Secretary of Agriculture, transmitting, pursuant to law, a report entitled "Official Inspection of Vehicles," which, with the accompanying papers, was referred to the Committee on Post Offices and Post Roads.

SKILLED INVESTIGATION AT SCENE OF ACCIDENT

The VICE PRESIDENT laid before the Senate a letter from the Secretary of Agriculture, transmitting, pursuant to law, a report entitled "Skilled Investigation at the Scene of the Accident Needed to Develop Causes," which, with the accompanying papers, was referred to the Committee on Post Offices and Post Roads.

REPORT OF UNITED STATES EMPLOYEES' COMPENSATION COMMISSION

The VICE PRESIDENT laid before the Senate a letter from the secretary of the United States Employees' Compensation Commission, transmitting, pursuant to law, the annual report of the Commission for the fiscal year ended June 30,

1937, which, with the accompanying report, was referred to the Committee on Claims.

PETITIONS

The VICE PRESIDENT laid before the Senate a resolution adopted by Cheyenne Post, No. 75, Regular Veterans' Association, of Cheyenne, Wyo., favoring the enactment of legislation to increase the pay of enlisted men and junior commissioned officers, and also a more just and suitable pension for disabled enlisted men of the Regular Army and their dependents, which was referred to the Committee on Military Affairs.

Mr. LODGE presented a petition of sundry citizens of Boston, Mass., praying for the enactment of the so-called Wagner-Van Nuys antilynching bill, which was ordered to lie on the table.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. LONERGAN:

A bill (S. 3186) granting an increase of pension to Mary A. Prior; to the Committee on Pensions.

By Mr. McNARY:

A bill (S. 3187) authorizing an appropriation for the development of a naval air base at Tongue Point, Oreg.; to the Committee on Naval Affairs.

By Mr. OVERTON:

A bill (S. 3188) for the relief of the Ouachita National Bank of Monroe, La.; the Milner-Fuller, Inc., Monroe, La.; estate of John C. Bass, of Lake Providence, La.; Richard Bell, of Lake Providence, La.; and Mrs. Cluren Surles, of Lake Providence, La.; to the Committee on Claims.

By Mr. MINTON:

A bill (S. 3189) for the relief of Earle Embrey; to the Committee on Claims.

By Mr. MILLER:

A bill (S. 3190) to authorize the appointment of one additional United States district judge for the eastern and western districts of Arkansas; to the Committee on the Judiciary.

By Mr. MURRAY:

A bill (S. 3191) to amend clause (4b) of subsection (b) of section 203 of the Motor Carrier Act, 1935; to the Committee on Interstate Commerce; and

A bill (S. 3192) to authorize the appointment of an additional judge for the District Court of the United States for the District of Montana; to the Committee on the Judiciary.

By Mr. GUFFEY:

A bill (S. 3193) to repeal section 2 of the act of June 16, 1936, authorizing the appointment of an additional district judge for the eastern district of Pennsylvania; and

A bill (S. 3194) to repeal section 2 of the act of June 24, 1936, authorizing the appointment of an additional circuit judge for the third circuit; to the Committee on the Judiciary.

By Mr. ASHURST and Mr. HAYDEN:

A bill (S. 3195) to provide for the erection of a monument or plaque as a memorial to Anson H. Smith in a suitable public place at the site of Boulder Dam, in Mohave County, Ariz.; to the Committee on Irrigation and Reclamation.

By Mr. SHEPPARD:

A bill (S. 3196) authorizing and directing the appointment of Jefferson T. Baker as a captain of Infantry, Officers' Reserve Corps, United States Army; and

A bill (S. 3197) authorizing the disbursement of funds appropriated for compensation of help for care of materials, animals, and equipment in the hands of the National Guard of the several States, Territories, and the District of Columbia; to the Committee on Military Affairs.

GOVERNMENTAL ADJUSTMENT OF PURCHASING POWER OF THE DOLLAR

Mr. THOMAS of Oklahoma submitted the following resolution (S. Res. 216), which was referred to the Committee on Agriculture and Forestry:

Whereas an unprecedented drop in basic commodity prices from March to December 1937 preceded the collapse of other values and has resulted in industrial paralysis, unemployment, and increased burdens for taxpayers and the Treasury; and

Whereas it has been the repeatedly announced objective of the President to restore a price level equitable to creditors and debtors, and thereafter to maintain economic stability: Therefore be it

Resolved, That it is the sense of the Senate that the Federal Reserve Board, the Treasury, and the executive agencies of the Government should proceed forthwith to adjust the purchasing power of the dollar by the necessary monetary policies and measures to attain within the next 12 months the 1926 price level of wholesale commodities, including farm products.

PRINTING OF ADDITIONAL COPIES OF RULES OF CIVIL PROCEDURE FOR DISTRICT COURTS

Mr. HAYDEN, from the Committee on Printing, reported a resolution (S. Res. 217), which was considered by unanimous consent and agreed to, as follows:

Resolved, That 9,000 additional copies of House Document 460, current session, entitled "A Letter from the Attorney General of the United States Transmitting the Rules of Civil Procedure for the District Courts of the United States," be printed for the use of the Senate document room.

PAYMENT OF EXPENSES OF COLORED EDITORS AT FARM CONFERENCE

Mr. BULKLEY. Mr. President, shortly after the adjournment of the last session of Congress I received from a constituent the following inquiry:

What truth is there in the news story that Secretary Wallace invited the editors of the colored press to Washington to explain to them the farm bill and wound up by paying their expenses out of Government funds? If the story is true, what justification is there for such use of public funds?

I submitted that inquiry to the Department of Agriculture and received from the Agricultural Adjustment Administrator a reply which I think is of general interest, and I ask that it be printed in the body of the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

UNITED STATES DEPARTMENT OF AGRICULTURE,
AGRICULTURAL ADJUSTMENT ADMINISTRATION,
Washington, D. C., January 5, 1938.

HON. ROBERT J. BULKLEY,
United States Senate.

DEAR SENATOR BULKLEY: Your letter transmitting an inquiry from one of your constituents concerning a meeting of Negro editors in Washington on December 1 and 2 has been referred to the Agricultural Adjustment Administration for reply, since the Agricultural Adjustment Administration was instrumental in arranging the conference.

The conference of Negro editors was arranged with the advice and assistance of the acting director of the southern regional division of A. A. A., in whose territory the majority of Negro farmers live, and with the cooperation of the Farm Security Administration, which share the expense of the meeting.

The meeting developed out of the experience gained in previous efforts to inform Negro farmers regarding A. A. A. farm programs and other farm programs. These programs depend for their effectiveness on the degree to which farmers understand them; and there is a special problem in this respect among Negro farmers, since their sources of information are often very limited.

How important it is to the entire Nation, as well as to the Negroes themselves, to have the soil-conservation program operate effectively among Negro farmers can be instantly appreciated from two essential facts: First, a substantial part of the agricultural land of the United States, particularly in the South, is farmed by Negroes; and, second, the heavy rainfall, steep slopes, and texture of the soil have combined to cause the greatest destruction of soil in the southeastern part of the country, where so much of the farming by Negroes is done.

There are in the United States more than 855,000 Negro farm families, of whom about 211,000 are landowners and 644,000 renters and sharecroppers. These families cultivate approximately 18,000,000 acres of land.

Soil destruction is probably more acute in the South than in any other area. The absence of snow, the lack of perennial grass cover, and the persistent row cultivation of cotton, corn, and tobacco, along with the heavy rainfall, have led to terrific losses from erosion. Much of the land in the Southeast is riddled by gullies and dotted with abandoned farms. In the Piedmont Plateau several million acres have been stripped of their productive topsoil. The high cost of tilling unproductive land has bankrupted many farmers. Impoverishment of the people has gone hand in hand with impoverishment of the soil. In three Southeastern States alone during the decade from 1920 to 1930, 50,000 farms were retired from cultivation.

Now, by direction of Congress, the Nation is trying to reverse this process of destruction of soil. The Agricultural Adjustment Administration is undertaking to help the farmers carry out co-operatively a program of soil conservation. Obviously such a program must depend for success upon widespread understanding and cooperation of farmers. If the purpose of conserving and rebuilding soil resources is to be accomplished, it must have the support of Negro farmers as well as white farmers. It could not

be accomplished by leaving out of account a half million farm families tilling 18,000,000 acres of land.

Congress by law has directed that in administration of the Soil Conservation Act the rights of tenants, sharecroppers, and small producers shall be protected. Needless to say, Negro farmers, so many of whom are renters or croppers, have borne their full share of the suffering caused by impoverished soil and fluctuating farm prices. No class of farmers stood more in need of assistance at the time the farm programs were inaugurated in 1933, and no group stands more in need of continued help now.

Generally speaking, Negro farmers have not been adequately informed about the details and purposes of farm programs. This lack of information, which has been due to various factors, has resulted in limiting participation, reducing the usefulness of the program to Negroes and in continued losses of the Nation's soil resources. Officials of the Southern Division of the Agricultural Adjustment Administration and others entrusted with responsibility thereto have tried consistently to develop methods and agencies of better acquainting the Negro farmers with the programs in general.

To that end, the cooperation of many public-spirited groups and individuals in the South, including State directors of extension, has been sought and given. The Negro land-grant colleges, extension agents, and vocational teachers and other leaders of the Negro race have done what they could to help. Out of these efforts grew a realization of the need for better channels of information to Negro farmers. Claude A. Barnett, of Chicago, director of the Associated Negro Press, who has taken a deep interest in efforts to bring more information to Negro farmers through their newspapers, in a letter to the Administrator of the Agricultural Adjustment Administration in October, proposed a conference between Negro editors and officials of the Department of Agriculture. His letter said in part:

"The great bulk of Negroes engaged in farming are in the South and are concerned with producing cotton. In proportion as they actually comprehend the various A. A. A. programs, such as acreage adjustment, owner-tenant share of annual payments for adjustment, the new tenant-ownership bill, etc., the better able they will be to take advantage of the programs and secure the benefits planned for them.

"It seems to me, therefore, that even greater care should be used in getting over to Negro farmers material which might be serviceable to them. The Negro newspapers of the country, while not covering the rural South in any perfect sense, still have a considerable circulation in that territory and represent the only medium which do any sort of practical job other than 'word of mouth' messages."

In addition to the purpose suggested by Mr. Barnett, the A. A. A. had uppermost in mind that the conference would bring to the Agricultural Adjustment Administration the suggestions of the editors for improvement in administration and increasing understanding of the program among Negro farmers.

From their beginning, the A. A. A. programs, both as to development and administration, have been worked out with the advice and counsel of representatives of the interested groups of farmers and others. In following this cooperative way of carrying out farm programs the A. A. A. has held conferences from time to time and the meeting of Negro editors was a part of this procedure. The Agricultural Adjustment Administration realized that the payment of expenses for attendance at such conferences is justified only in unusual circumstances. But inquiry developed that a representative conference of Negro editors probably could not be held unless the Government paid the travel expenses involved. These expenses totaled approximately \$1,150. The legal authority to pay them, as already has been set forth in a letter to the Senate Appropriations Committee, seemed clear. It also seemed fair that the Government should bear the editors' expenses since it intended to make use of their suggestions in dealing with practical problems of administration.

An effort was made to select a representative list of papers with farm circulation and at the same time to keep down the expenses of the meeting. With the help of extension officials and Negro extension workers in the South a list of Negro newspapers was compiled. One person was invited from each paper.

The editors were invited to discuss, and did discuss with Department officials, virtually every phase of the agricultural problems affecting the Negro farmer. There was no restriction whatever upon their inquiries or the discussion which ensued. The pending farm legislation was not on the agenda for the conference and was not discussed on the initiative of administrative officials. Such questions as were asked about it were answered in a factual way. Secretary Wallace was invited to address the group informally, which he did.

It is our opinion that this conference will result in substantial improvement of administration of the national soil-conservation program and that the expenditure required was a sound and economical use of public funds. The entire work that I have been describing has been gaining steadily in public esteem in the South.

May I thank you again for the genuine interest that led you to give us an opportunity to supply the facts.

Sincerely yours,

H. R. TOLLEY, Administrator.

WELLS FARGO EXPRESS AND MODERN TRANSPORTATION—LETTER FROM GOVERNOR OF CALIFORNIA

Mr. McADOO. Mr. President, the Governor of the State of California was requested to send a communication to me in

one of the original mail pouches used by Wells Fargo & Co. during the days of the pony express. This pouch, containing the letter, was put in an airplane yesterday in California, and the Postmaster General and I a few moments ago had the honor of receiving this letter from a rider who received the pouch at the airport. As this occurrence brings back the memory of those historic days and shows the tremendous advance which has been made in transportation since that time, I desire the privilege of inserting in the RECORD this letter from the Governor of California. I shall not read it. I simply ask that it be incorporated in the RECORD at this point as part of my remarks.

Mr. CONNALLY. Mr. President, reserving the right to object, I inquire does the insertion of this matter in the RECORD require action by the Senate?

The PRESIDING OFFICER. It requires the consent of the Senate.

Mr. CONNALLY. That is action, is it not? I have no objection.

The PRESIDING OFFICER. Without objection, the letter will be printed in the RECORD.

The letter referred to is as follows:

STATE OF CALIFORNIA,
GOVERNOR'S OFFICE,
Sacramento, January 5, 1938.

HON. WILLIAM G. McADOO,
United States Senator, Washington, D. C.

DEAR SENATOR McADOO: It affords me unusual pleasure to send you greetings from California delivered to you in one of the original pouches used by Wells Fargo, now in possession of the Wells Fargo Bank in San Francisco. The makers of this pouch did not realize that at some time it would be carried from San Francisco to Washington in 16 hours via United Air Lines.

The picture Wells Fargo depicts the development of transportation facilities in the United States and particularly the influence the same had upon the early history of this great State of California. The picture is a fitting commemoration to those persons who took such an important part in the progress of California during the days of the gold rush.

With kindest regards, I am,

Very sincerely yours,

FRANK F. MERRIAM,
Governor of California.

WATER CONSERVATION OF YELLOWSTONE VALLEY—EXCERPT FROM ADDRESS BY SENATOR WHEELER

[Mr. FRAZIER asked and obtained leave to have printed in the RECORD an excerpt from a radio address delivered by Senator WHEELER at Billings, Mont., on November 12, 1937, on the subject of Water Conservation of the Yellowstone Valley, which appears in the Appendix.]

THE OUTLOOK IN CONGRESS—ADDRESS BY SENATOR REYNOLDS

[Mr. REYNOLDS asked and obtained leave to have printed in the RECORD a radio address delivered by himself on January 6, 1938, on the subject of The Outlook in Congress, which appears in the Appendix.]

EQUAL RIGHTS AMENDMENT—ADDRESS BY MRS EMMA GUFFEY MILLER

[Mr. HATCH asked and obtained leave to have printed in the RECORD an address delivered by Mrs. Emma Guffey Miller, Democratic national committeewoman for Pennsylvania, before the National Conference of the National Woman's Party held in Washington, D. C., December 15, 1937, which appears in the Appendix.]

THE BUSINESS CYCLE AND WOMEN—SPEECH BY RAYMOND G. SWING

[Mr. O'MAHONEY asked and obtained leave to have printed in the RECORD a speech delivered by Mr. Raymond Gram Swing at the National Conference of the National Woman's Party, December 14, 1937, on the subject The Business Cycle and Women, which appears in the Appendix.]

PREVENTION OF AND PUNISHMENT FOR LYNCHING

The Senate resumed the consideration of the bill (H. R. 1507) to assure to persons within the jurisdiction of every State the equal protection of the laws and to punish the crime of lynching.

The VICE PRESIDENT. The question is on the amendment, as modified, offered by the Senator from Illinois [Mr. LEWIS] to the amendment reported by the committee.

Mrs. CARAWAY. Mr. President, I ask unanimous consent to have printed in the RECORD at this point an editorial from the Arkansas Democrat on the subject of lynchings in 1937.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[Editorial from Arkansas Democrat, published in Little Rock, Ark.]

LYNCHINGS IN 1937

The special session of Congress adjourned without adopting the antilynching bill, thanks to the filibustering of southern Senators. It adjourned before the Tuskegee Institute of public records and research made its report.

Here are the records as submitted by the institute:

In 1937 there were eight lynchings. The 1936 total was the same. In 56 instances officers of the law prevented lynchings that would have involved 5 white men and 72 Negroes. The eight 1937 and 1936 lynchings compared with 20 in 1935 and 15 in 1934.

While the Tuskegee figures are not needed to add to the evidence that the antilynching bill was one of the most vicious aimed at the South since reconstruction days, we do call attention to the fact that the statement that in 56 instances lynchings were prevented by officers of the law.

The "excuse" for the law is that officers fail to protect men accused of crimes and because of that dereliction of duty the county in which it happened should be fined.

Could any more convincing evidence be produced? The Tuskegee report should be sufficient to end the argument in Congress when the antilynching bill bobs up again.

Mr. BORAH. Mr. President, this measure, in a slightly different form but embodying the same principles, came to this body about 25 years ago. At that time I was a member of the Judiciary Committee of the Senate and was appointed by the late Senator Nelson chairman of a subcommittee to pass upon the measure, particularly its constitutional features. I shall not at this time go into the history of the action of the committee at that time. It may be necessary to do so later in order to throw light upon some features of this matter. It is sufficient now to say that I reached a conclusion as to the merits of the bill, which conclusion I still entertain.

Heretofore I have confined my remarks upon this bill largely to the question of its constitutionality. Those questions still interest me, and probably I shall discuss them later. Today, however, I desire to address my attention for a time to the policy involved in this measure. Assuming for the purpose of the argument that we have the constitutional power to pass such a measure as this, I desire to invite the attention of the Senate to the wisdom of doing so. I think it only a little less important, perhaps no less important, than the constitutional question itself.

Notwithstanding anything that has been said or that may be said to the contrary, this is a sectional measure. It is an attempt upon the part of States practically free from the race problem to sit in harsh judgment upon their sister States where the problem is always heavy and sometimes acute. It is proposed to condemn these States and the people in them because it is claimed that they have failed properly to meet and adjust this most difficult of all problems. No more drastic condemnation could be offered by a measure than that which is offered by the measure now before the Senate.

It proposes to authorize the national Government to enter into the States, and to take charge of and prosecute as criminals the duly elected officials of the States, from the governor down. It proposes that the Federal Government shall be the sole judge of the guilt or innocence of State officials.

In my opinion that requires a review of some unfortunate history, and the recalling of some unpleasant facts. These States are not to be pilloried and condemned without a full presentation of the nature of the task which fate and circumstances imposed upon them, and not without a complete record as to the weight and difficulty of the task, what has been done, and with what good faith it has been met. I shall contend that the southern people have met the race problem and dealt with it with greater patience, greater tolerance, greater intelligence, and greater success than any people in recorded history, dealing with a problem of similar nature. Let us inquire what it is that the South has had to do, how it has done it, and what reason there is now, after 70 years of great effort, to pass censure or condemnation of those great States and that great people.

Paraphrasing the language of one of the most eloquent of men, when the Confederate soldier pulled his gray cap over

his brow, and lifted his pallid and tear-stained face for the last time to the graves which dotted the hills of old Virginia, and started on his slow and painful journey home, what was he to find? What were the problems, what was the task, what were the conditions which confronted him? His home was destroyed, his plantation devastated, his help gone, his money worthless, his civilization imperiled. This was the condition in addition to the other problem with which we are more particularly concerned today, and which confronted the South as it entered upon its great task of rebuilding.

I shall not go into details as to the reconstruction period. I recall it sufficiently and only that we may understand something of the antecedents of this problem and something as to the good faith and the ability with which it has been met. I recall a single instance in the way of illustration. When Congress met in December 1865 the then leader of the House—perhaps the most complete master of the House of Representatives that history records—Thaddeus Stevens, outlined the program with reference to the then pending situation. Among other things, he said:

The future condition of the conquered power depends upon the will of the conqueror.

He said further that the conquered provinces were to be admitted as States—

Only when the Constitution has been amended so as to secure the perpetual ascendancy of the party of the Union—

The Republican Party.

Every government is a despotism. * * * The Constitution has nothing to do with it [the program]. * * * I propose to deal with you [the South] entirely by the laws of war. * * * The conquered people have no right to appeal to the courts to test the constitutionality of the law. The Constitution has nothing to do with them or they with it.

Thus they were to take up the work of rebuilding and of carrying the race problem with the threat of having all constitutional guaranties withdrawn.

Mr. President, I have always felt that in many respects the reconstruction period is the most regrettable page of American history. Had Abraham Lincoln lived through his second term it probably would have been the most readable page, one of the noblest pages in all history. It would have been characterized by wide sympathy, by breadth of understanding, and by that wisdom which flows from the heart as well as the brain, which passeth all understanding. It would have been free from that blind partisanship which disregards constitutions and constitutional limitations as well as national honor and national unity.

A short time before the Great Emancipator was removed from the scene he had outlined his views on reconstruction. What a different story would have been written had those views prevailed! What a different national life would have been lived had those views obtained! But before his body had reached Springfield the committee had met and had determined upon the complete rejection of the entire policy theretofore announced by the dead President. Ben Butler's views superseded those of Abraham Lincoln; and a more tragic thing could not happen in a crisis confronting a nation. These measures with reference to reconstruction therefore were written from the standpoint of partisanship not unmingled with a desire to punish.

The measure now before the body embodies the same principle upon which those measures were founded. The same arguments are made in support of the pending measure, to wit, that the southern people are to be distrusted and are incapable of local self-government.

We know now what those measures in those days did. They retarded and frustrated the coming together of the people of the different States. They gave us the solid South. They separated us politically, which separation continues until this day. They implanted a sense of bitterness in the minds of those people, not because of what had happened upon the field but because of what happened in Congress.

It is not in the interest of national unity to stir old embers, to arouse old fears, to lacerate old wounds, to again, after all these years, brand the southern people as incapable or unwilling to deal with the question of human life. This

bill is not in the interests of that good feeling between the two races so essential to the welfare of the colored people.

Nations are not held together merely by constitutions and laws. They are held together by mutual respect, by mutual confidence, by toleration for conditions in different parts of the country, by confidence that the people in the different parts of the country will solve their problems; and that is just as essential today as it was in 1865 and 1870.

In the beginning, Mr. President, I reject the pending measure as fundamentally not in the interest of the white people of the South, not in the interest of the black people of the South, not in the interest of national unity nor of national solidarity, not in the interest of eliminating crime. History has proven that it will be a failure, and those who suffer most will be the weaker race.

Mr. President, the race problem is the most difficult of all problems, and, in addition to the conditions which I have outlined briefly, the southern people had placed upon them the race problem under circumstances and conditions never before experienced by any people, so far as I know, in recorded history. In addition to and on top of all other problems the South had to grapple with the race problem. How well has it dealt with it?

At the close of the Civil War there were a little over 5,000,000 white people in the South; there were 3,500,000 Negroes. In Mississippi there were 100,000 more colored people than white people. In South Carolina there were something like 150,000 more colored people than white people. There were the two races, living upon the same soil, now equally free under the Constitution, one of them untrained and unschooled in the affairs of state, and untrained in citizenship. The problem had to be met. Was it easy of solution? Can one conceive of a more difficult problem placed before a people? I wish we could place ourselves in their position. It would help us to be sympathetic, sane, and just.

I call attention to some facts which lead up to the question of lynching. History shows that in the North in 1889, 1 Negro in every 185 was in jail; in the South, 1 in every 446. In the North the percentage of Negro prisoners was six times as great as that of the native whites, in the South four times as great.

Monroe S. Work, of Tuskegee College, has said:

There is a much higher rate of crime among the Negroes in the North than in the South.

That speaks volumes for the southern Negro and no less for the whites.

Professor Johnson, of Fisk University, has said:

The rate for Negroes is much higher in the Northern States than in the Southern States as to crime. Judging by the figures alone, for a 10,000 Negro population, the commitments were 88 in the South, 283 in the North.

In a volume entitled "Negro Housing" published in 1932, I find the following:

The extent of property ownership by Negroes has in the past been greater in the South than in the North.

It will be disclosed that in some of the southern cities the percentage of Negro ownership of homes runs as high as 45 percent of the Negro population; in other places as high as 30 to 39 percent of the Negroes own their own homes.

In a bulletin issued by the Department of Agriculture in 1930 we find the statement that the value of land and buildings of farm property owned by Negroes increased from 1910 to 1930 as follows, giving the round figures:

| | Percent |
|---------------------|---------|
| Virginia..... | 58 |
| North Carolina..... | 140 |
| Georgia..... | 11 |
| Florida..... | 29 |
| Louisiana..... | 142 |
| Texas..... | 97 |
| Mississippi..... | 68 |
| Alabama..... | 41 |
| Oklahoma..... | 54 |
| West Virginia..... | 37 |

I mention these figures to show the progress of the Negro throughout the South in an economic way, for, after all, only in proportion as he acquires property and economic power can he hope to be secure in his political rights. That is just as true of the white man as of the colored man. And in proportion that he advances in education, in the acquisition of property, and in the acquisition of economic rights, in that proportion he will come to be regarded as an essential factor of the southern civilization, and treated as such; and to accomplish that has been the aim of the southern Negro, encouraged and assisted by the white people of the South.

I shall now read from a little volume to which I called attention a few days ago during the debate on the farm bill, a volume written by Gerald W. Johnson, who, I have been informed, is one of the editors of the Baltimore Evening Sun. He has written a remarkable volume upon the questions which pertain to the southern portion of the country. On page 8 of the volume he says, referring always to the South:

The problem of public education, for example, has not been solved. It is further from solution in the South than in any other region. But when one considers that the South has to teach more Negro children than there are children of all kinds in New England; and when one notes that it is spending far more of its total income on schools than is spent by any other region, its effort, even though but half successful, must command respect and admiration.

They must educate more Negro children in carrying this load than all the children of New England, and they are doing so; and by educating them they are fitting them for citizenship, schooling them against crime, and they are laying the only sure foundation there is for the extinguishment of crime among the Negroes. They are laying at tremendous cost the foundation for the good citizenship of the Negro, and while lynching can never be justified, nevertheless there is no more successful approach to the ending of lynching than through education, through bringing both races to understand their responsibility to society. I know of no finer sense of duty than that displayed by the South in the help it gives the Negro in bettering his condition as to property, as to economical strength, and as to education.

I read again from this able writer:

It has been the fashion in some quarters to assume that the Southeast has remained almost completely inert in the presence of its social problems. This is far from the truth. A mere glance at the educational statistics of the region is enough to dissipate the impression that the Southeast has been indifferent or lethargic in this respect. The State of Florida, for example, spends 5.76 percent of its total income for school purposes, and North Carolina 4.38 percent; this is the largest percentage that is spent for similar purposes by any other States save the Dakotas. * * * The Southeast spends 3 percent of its total income for higher education, the highest percentage in the Nation. It enrolled more high-school students in 1930 than the whole country did in 1900, and there are more accredited high schools in this region than there were in the United States at the end of the century. Its present army of 60,000 high-school graduates annually represents an increase of 500 percent within the last two decades.

I pause to say that if we knew as much about the South and what they have done and are doing as we pretend to know, we would not be so free to criticize. It is a horrible thing to see the body of a Negro burned to a crisp, swinging from the limb of a tree; it is a horrible thing to have a daughter or son, perhaps a mere child, snatched from your homes, carried into hiding, perhaps murdered. These are our problems, pressing for consideration, and they are making as determined an effort to clear the stain from the honor of the South as are we to rescue our honor in the North. "Why beholdest thou the mote that is in thy brother's eye and considered not the beam that is in thine own eye."

During the last session of Congress we had under consideration in the Committee on Education and Labor what is known as the educational bill, and, of course, it vitally affected the Negro people of the South, and they appeared in great numbers before the committee. At that time Senator Black, now Justice Black, was chairman of the committee. The most difficult problem was to work out absolute protection for the colored children in the enjoyment of

the fund proposed to be set up. I must say that I never knew a person more meticulous, more determined, more vigilant to protect the colored students in the enjoyment of that fund than was Justice Black. I was impressed with the fact that there was a determination upon his part to reach the Negro at that point in his life where he could best serve him not only with reference to general citizenship but as to the reduction of crime. Mr. Johnson states further in this volume:

The most conspicuous characteristic of the southern population, however, is its biracial character. A group of 8,000,000 people of a different color from the other 17,000,000 is a feature so startling that it may be expected to attract more attention than perhaps it deserves.

The inevitable result has been enormous waste of the Negro's potential value to the social structure. Not all of this is the fault of the white South by any means. The hasty and ill-advised effort made in the sixties to project the newly emancipated slaves into a political and social position they were not prepared to occupy has made any realistic treatment of their position extremely difficult. Not only did it create appalling prejudices but it erected very substantial legal barriers against any direct and forthright approach, and forced southern political and social polity into a sinuousness that has been productive of a thousand evils.

This is, however, water over the dam. What confronts the Southeast today is the problem of making the best possible use of 8,000,000 blacks.

Only comparatively recently has any considerable effort been made to treat the disease, rather than to alleviate its symptoms—or, rather, only recently has the idea begun to spread that perhaps there isn't any organic disease, but only a series of functional disturbances. Since the turn of the century the Southeast has been making real, if not always adequate, efforts in the field of Negro education. With the rise of the Negro in the cultural and economic scale there has come also an appreciable reduction of the rigor of civil and social disabilities. And with both there is a strengthening belief that perhaps the traditional approach to this situation has been faulty.

Everywhere we find a determination to find the right way. The Negro is there. He is there to stay. The South knows that he is there to stay, that he is a part of the wealth of the South. We in the North may be interested in the Negro politically. We care little about him economically. But he is an indispensable factor in the economic development of the South. They can and will do for him far better without our interference or advice than with it.

Mr. President, the Negro has had a hard road to travel even since he was given his freedom. A hundred-and-odd years of slavery afforded poor training for citizenship in the most advanced of nations. Almost overnight he went from slavery to take up the obligations of a free man in a free country; but, everything considered, he has done well; his advancement has been marked. Restricted, not by the Constitution of his country or the decisions of its highest courts, but restricted, almost cabined and confined, by the iron laws of society, nevertheless he has made progress. And where has that progress been greatest? In the South. In spite of prejudice, and statements to the contrary, facts and figures show it has been greatest in the South. In the acquisition of property and economic advancement generally the Negro has fared better in the South than elsewhere.

It is true, as is contended here, that at times he has suffered from mob violence in the South, but it is equally true that he has suffered from race riots in the North. But in all things which make for the advancement of the race as a race, the North has no advantage over the South in the story of the advancement of the Negro. We have shown no greater patience, no greater tolerance, no greater ability to deal with this race than have our brothers of the South. And now, because there is the power, because there are the votes, because it is possible to do so, it is proposed to call these great States and these people before the bar of public opinion and, after 70 years of arduous effort on their part, condemn them as unfit and unwilling to deal with this great problem, condemn them for having failed in the essential principle of home government, of home rule. After these 70 years, and after 150 years, taking the Government's history as a whole, we now come to the time when we are asked to say that home rule or local government has broken down in

a number of the States of the Union. We call these States and these proud people to judgment before the whole world and spread upon the records of the Congress our condemnation, our judgment that in the most vital things of free government they have failed.

Broken down! Why? Because eight Negroes were lynched last year. There were 20 kidnaping cases in the United States last year. After all the efforts of the States and all the efforts of the Federal Government, taking charge of those who crossed State lines, we still had 20 kidnaping cases as against the 8 lynching cases in the South. Is that an indication that the South is not in good faith and with honorable effort trying to protect the colored race and to give it the same protection that it gives the white race?

Lynching is the one crime, Mr. President, that is distinctly and markedly on the decrease in the United States.

I shall take time to read briefly some facts and give some figures.

Prof. Charles S. Johnson, of Fisk University, says:

Taking the period of 1889 to 1893 as 100 percent, it is of interest to note that every 5-year period has shown a decrease in the total number of individuals lynched.

He then gives the figures showing that from 1924 to 1928 there was a decrease of Negro lynching amounting to 84.8 percent. He concludes by saying:

It will be discovered from the accompanying graphs and tables that at the present rate of decrease lynching will apparently cease to be a problem in race relations due to its disappearance.

Further, he says:

In the 30-year period from 1889 to 1918, inclusive, there were 2,522 Negroes lynched.

That is about 84 a year.

He then calls attention to the fact that in 1924 the number had dropped to 16. Last year the number was eight. In many of the Southern States lynching has practically disappeared. Virginia had only one case in 10 years. West Virginia had none during the past 5 years. South Carolina had none during the past 3 years. Oklahoma had one in 10 years. North Carolina had two in 7 years. Arkansas had three in 9 years. Maryland had two in 10 years, and none for the past 3 years.

I call your attention to a statement from the great Tuskegee Institute located in the State of Alabama. It reads:

There are a number of interesting features to be noted. From 1882 to 1885 there were more whites lynched than Negroes. Concerning the decline of lynchings in the United States, I call attention to sheet No. 2, "Lynchings, white and Negroes, by periods, 1882-1936." You will note that there has been a steady decline in the number of lynchings for each of the 10-year periods, 1887-96 to 1927-36. Judging from the trends shown in this table, there is every reason to believe that there will be a further decline in lynchings.

There are probably three major factors that have contributed to this decline. The first of these is the tendency for frontier characteristics in the South to disappear (lynching was a special characteristic of the frontier in America, both in the West and in the South). Second, the breaking down of isolation in the South by increased facilities: (1) Rural free delivery; (2) more telegraph offices; (3) more telephones in small towns and rural areas, and (4) recently the radio and paved roads. Third, increasing agitation within the South during the past 40 years against lynchings. This has resulted in an increasing sentiment against the evil. This sentiment has expressed itself in the increasing efforts to prevent lynchings.

From 1914 to 1919 the number of persons lynched was much greater than the number of persons prevented from being lynched. From 1920 to the present the number each year prevented being lynched has greatly exceeded the number lynched.

These facts and trends seem to indicate unquestionably that there will continue to be a decline in lynchings in the United States. Not only in these statistics but in many other ways is there employed a growth in the humanitarian attitude of the American people. This growth, I believe, has paralleled the development of educational and social agencies, all of which bid fair to rid this Nation of the barbaric practice of lynching.

In other words, the problem is being met, the problem is being solved, and it is being solved in the way that America solves her problems when they are local and of a local nature; and that is through the activity and the cooperation and the determination of the people themselves.

Mr. President, suppose Congress passes this bill; suppose it becomes a law; where must we go for its enforcement? The bill may be passed by votes from other States, but for its enforcement we must go to the juries in those communities which we condemn. The bill may be passed in the theoretical atmosphere of Washington, but it must be enforced down among the people in the realistic atmosphere of the Southern States. There will be the southern district attorney, the southern judges, the southern juries, and they must be depended upon for the enforcement of the law. Do Senators think they will more likely enforce the law when they have been condemned in the sight of all the world, and in the face of such condemnation, than when they are appealed to from the standpoint of the sense of duty of their State and their sense of duty of citizenry?

We get back, after all, to the people themselves for the enforcement of the law. We have had an experience in this country showing that we cannot enforce a law when public opinion is not behind the law. The only way in which we can hope to have the law enforced is by the method that is now pursued by the southern people—that is, to educate the people up to an understanding that it is to their interest and to their honor to maintain law and order in their communities—and that they are doing.

Some years ago a great southerner discussed this question, and I cannot refrain from calling attention to some of his language. It seems to me fair, just, and so in accordance with the sentiments of the true patriot that it is worth while for us to stop and hear the voices of those who are wrestling with the problem at home.

Mr. Henry W. Grady said:

Nothing, sir, but this problem and the suspicions it breeds, hinders a clear understanding and a perfect union. Nothing else stands between us and such love as bound Georgia and Massachusetts at Valley Forge and Yorktown. * * *

I thank God as heartily as you do that human slavery is gone forever from American soil. But the freeman remains. With him a problem without precedent or parallel. Note its appalling conditions. Two utterly dissimilar races on the same soil—with equal political and civil rights—almost equal in numbers, but terribly unequal in intelligence and responsibility. * * * Under these, adverse at every point, we are required to carry these two races in peace and honor to the end.

Never has such a task been given to mortal stewardship.

Is that not true? Can we find anywhere in history a task such as was assigned to the southern people at the close of the Civil War, with slaves for 100 years released, free as they should have been, but given the power to participate in politics without any training and without any experience? It was beyond their capacity, as it would have been beyond the capacity of any race immediately to assume in full, and properly discharge, the duties of citizenship. But those were the conditions which confronted the South, and with which they have been dealing.

The resolute, clear-headed, broad-minded men of the South * * * wear this problem in their hearts and brains, by day and by night. They realize, as you cannot, what this problem means—what they owe to this kindly and dependent race—the measure of their debt to the world in whose despite they defended and maintained slavery.

If you insist that they are ruffians, blindly striving with bludgeon and shotgun to plunder and oppress a race, then I shall sacrifice my self-respect and tax your patience in vain. But admit that they are men of common sense and common honesty, wisely modifying an environment they cannot wholly disregard—guiding and controlling as best they can the vicious and irresponsible of either race * * * admit this, and we may reach an understanding without delay.

Let us admit that the South is dealing with this question as best it can, admit that the men and women of the South are just as patriotic as we are, just as devoted to the principles of the Constitution as we are, just as willing to sacrifice for the success of their communities as we are. Let us give them credit as American citizens, and cooperate with them, sympathize with them, and help them in the solution of their problem, instead of condemning them. We are one people, one Nation, and they are entitled to be treated upon that basis.

Mr. President, I now turn briefly to another feature of this measure. I shall discuss it later in more detail, referring to

court opinions. But I call attention to this feature now which must be of concern to every Member of this body, to everyone who believes in our dual system of government. This bill as it is drawn—observe my language—this bill as it is drawn strikes at the very heart, at the very life of local self-government. I ask Senators to reread the bill in the light of that assertion. It would place a construction upon the fourteenth amendment never contemplated by the men who wrote it—in fact, specifically rejected by them—and which, in my opinion, a fair construction in no sense sustains.

The bill openly and professedly declares in effect—and that is the theory upon which it rests—that the people in these States are either unwilling or unfit to maintain the most ordinary principles of organized society, and that in the face of the facts which I have shown, that they are really solving the problem.

Permit me to say here before I go further that I make no contention but that the fourteenth amendment has forever placed it beyond the power of any State to deny any person the equal protection of the laws, or to deprive any person of life, liberty, or property without due process. I recognize also that the State acts and speaks through its officers, legislative, judicial, and executive. I am not going to take refuge in technicalities, but I contend for what I believe to be a fundamental principle, and that is that while you may call a State thus acting and thus speaking to account, you cannot take jurisdiction over or deal with acts and deeds not done by the authority and by the direction of the State. It must at all times be State action. You cannot deal with acts under the fourteenth amendment not done by and under the authority and direction of the State. The dereliction of an officer in violation of the laws of the State, in disregard of the sworn duty exacted of him by the State, and subject to punishment by the laws of the State, cannot by any possible construction, either in law or in conscience, be the act of the State. To establish any such principle would be to undermine and break down the integrity of every State in the Union. If a State may not be entrusted exclusively with the authority and relied upon to exercise the authority to punish those who violate its own laws, public or private persons, then there is no such thing as local government, because the State is deprived of the very instrumentality by which it maintains State integrity.

Since this proposition first came before Congress the Senators from the Southern States have borne the brunt of the debate. They have been made to feel the criticism of those who look upon opposition as mere local prejudice. We are all prone to consider the race question as peculiarly a southern problem, and we leave our southern friends to deal with it without very much sympathy or interest. But assuming that we are going to continue this narrow and selfish course, when we come to read this bill it is found that it goes an arrow's flight beyond any race question. The way it is drawn and its legal terms lift the bill out of the region of the race question into the region of governmental principles.

I do not contend, of course, that the authors of the bill or its supporters are taking advantage of the horror which we all feel toward the crime of lynching to strike a blow at our dual system of government, but that is precisely what is happening; that is precisely what will happen in view of the manner in which the bill is drawn. The constitutional feature of this bill under its terms is just as vital to Idaho as to Alabama; it is of just as much concern to Massachusetts as to Georgia. If the Federal Government can send a United States marshal into the State of Tennessee to arrest a sheriff because he has failed to protect a colored man from violence, it can, under the same principle, send a United States marshal into the State of New York to arrest a sheriff, or other officer on whom the duty is imposed, because he neglected to protect the life of a citizen against the violence of thugs. It is just as much the duty of the State to protect the citizen from violence not under arrest or not assailed by three but by two or one. The Constitution does not classify crimes. It does not say that lynching is subject

to the terms of the Constitution and that death by the act of thugs is not.

What does this bill provide? There is not a word in it which indicates that the failure to protect in any instance was due to the fact that the prisoner was a Negro. There is no provision indicating that the States of the South or their officers maintain one rule of conduct for the Negro and another for the whites. There is nothing to the effect that the laws of the States favor the whites and do not favor the Negro. There is no indication or intimation in the bill that the failure of the officers to act was due to the fact that his prisoner was a Negro. This bill is not based in its terms upon discrimination against the Negro, because of unequal treatment of the Negro, but upon the theory the States have broken down in maintaining order and protecting life. That is not a local question but a national question. If the States no longer protect life and property not because of discrimination but because of failure to execute laws regardless of race then we have a great national problem to be met by constitutional amendment. The fourteenth amendment does not cover any such question.

In all the cases which are cited in the briefs sustaining this measure there will be found a specific provision in the statutes concerning the failure of the officer to act being due to the fact that the party in interest was a Negro. There is no such provision in this bill. This is a general proposition, dealing as much with one race as with the other. Let me read from the bill:

SEC. 3. Whenever a lynching of any person or persons shall occur, any officer or employee of a State or any governmental subdivision thereof who shall have been charged with the duty or shall have possessed the authority as such officer or employee—

That would include the Governor and all his subordinates in the executive department—

to protect such person or persons from lynching and shall have willfully neglected, refused, or failed to make all diligent efforts to protect such person or persons from lynching and any officer or employee of a State or governmental subdivision thereof who shall have had custody of the person or persons lynched and shall have willfully neglected, refused, or failed to make all diligent efforts to protect such person or persons from lynching, and any officer or employee of a State or governmental subdivision thereof who, having the duty as such officer or employee, shall willfully neglect, refuse, or fail to make all diligent efforts to apprehend, keep in custody, or prosecute the members or any member of the lynching mob, shall be guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding \$5,000 or by imprisonment not exceeding 5 years, or by both such fine and imprisonment.

Where is the provision there that deals with the lack of equality between the races or discrimination as to the races? There are no provisions in the bill requiring a showing that the failure of communities to protect a person was due to the fact that he was a Negro. In all the cases cited, there will be found a statute specifically requiring a showing that the officer refused to act or failed to or did not act because of the fact that race was involved and that a Negro was the person involved.

Let us carry this a little further. It is the first duty of a State, is it not, to enact laws to provide officers to protect life, liberty, and property? That is the first duty of every State. Suppose that a man is killed by thugs, we will say, in one of the great cities, without mentioning any particular one—and while the South lost eight Negroes by lynching last year the North lost hundreds because of acts of violence committed by thugs—and suppose that the State failed to take proper action under its laws and by its officers to protect the citizen on the highway or in his home against the acts of thugs; may we not, under the principle of law invoked in this bill, send an officer into that State to take charge of those police officers? What is the distinction in this bill between violence committed by a combination of thugs and violence committed by those who are combined into a mob? We are somewhat at a disadvantage in discussing the bill, because its authors have been entirely silent in presenting those features, and I am having to present it upon the briefs which I have read.

I think it might not be out of place here to call attention to another matter. The proponents of the bill are undoubtedly maintaining that the Federal Government will protect men in the South better than will the local communities. They are undoubtedly basing the entire measure upon the proposition that the Federal Government will execute the law. Well, we have the Federal Government in control of the city of Washington, which now, if not the first, is at least the second capital city of the world which is most plagued with crime. Seventy-five people here have been robbed of their property in one night. How close the police were I do not know. I understand the police escaped being robbed.

We can all recall instance after instance published in the papers of young women disappearing and their bodies being found outraged and the criminals never being intercepted. Why is there any reason to believe that the Federal Government can enforce criminal laws better than can the State Governments? The enforcement of law and the punishment of crime depends upon the will and purpose of the community where the crime is committed. Those advocating this bill are on a venture. They are going to take the responsibility away from the people in the South; they are going to say to them, "You are not qualified or willing to do the work; we are going to do it." Where is the record which shows that they will do it? What is the record?

We have now at the head of the Crime Department, if I may call it that, in the Department of Justice, perhaps the greatest specialist in the world in the running down of crime and criminals; We have a Federal kidnaping law by reason of the fact that kidnaping crimes generally pass State lines; but last year, 1937, there were 20 kidnaping cases in the United States, with the State and Federal Governments both working, and Mr. J. Edgar Hoover says that there never will come a time when there will not, in all probability, be kidnaping in the United States; that it is impossible to wipe out the crime; that so long as greed and the appetite for money are found in the human system, there will be kidnaping. Mr. Hoover very frankly states that it is impossible to wholly wipe out such crimes. They can be reduced to a minimum and lynching has been reduced to a minimum in the South.

Coming back to our Capital as an example of Federal enforcement, I read from a local paper:

The criminals of Washington are taking \$30,000,000 a year from the citizens of this city.

They are being deprived of life, liberty, and property, certainly without due process of law as that term is applied here. And the men in charge of the District seem to have thrown up their hands; they do not know how to deal with the situation. Yet the Federal Government is in control here; the Federal Government is back of them. They are not by any means doing as well as are the people of the Southern States in meeting the crime problem.

Mr. President, we are dealing with the race problem. We need not blind our eyes to that fact. And the race problem is a problem which does not readily yield to legislative solution, to the rigid demands of the law. Take, for instance, the colored girl who, under great handicaps, has earned the right to be employed by her Government upon an equality with everyone else. She goes with a certificate of competency from the Civil Service Commission to one of the departments here in Washington—here in Washington, under the aegis of the Federal Government—and when she enters the door and her color is discovered she is told that the place is filled, which is probably false. That happens not once but many times. She suffers injustice at the hands of her Federal Government. But that is a race question, and no law was ever made tight enough or strong enough to remove all its harshnesses and to eliminate all its injustices. Only the patient process of education, the uplifting power of religion, the tolerant, noble-minded men and women who give their thoughts to the cause can remove or mollify such injustices or such harshnesses. And that is being done; it is being

done in the South; that result the South is achieving; the record so shows; and the people of the South are entitled to our commendation and not our condemnation. They are entitled to our cooperation and support.

This, Mr. President, is another compromise with a vital principle of our dual system of government. It is bartering the future for the supposed and transient demands of the present, and at a time when the present is taking care of the problem. It is another instance in which our confidence in our scheme of government is not strong enough to say to all races, all creeds, all groups, and all factions: Your problems, however serious, are subordinate to the principles of this Government, and you must work them out within the compass of the long-tested and well-accepted principles of democracy.

Every American must feel a slight sense of guilt, if not a sting of remorse, when he reads the Premier of Italy's reference to the bellowing herds of democracy, to free institutions as the decadent breeding grounds of insincerity and confusion. The fundamental principles and precepts of popular government are not in doubt. There is no confusion there. The confusion arises when we depart from those principles. It was the embodiment of the precepts and principles of popular government in the Constitution of the United States which put confusion to rout in this country, gave ordered liberty to the people, and strength and direction to government. For centuries prior to the declaration that the powers of government are derived from the consent of the governed, and the dedication of a new continent to that sublime conception, there had been nothing but confusion, nothing but turmoil and misery, nothing but brute force and enslaved masses. And all that will happen again if the advocates of arbitrary power, now inveighing against free institutions in the presence of their assembled slaves, have their way and the world again comes under their sway. Contrast the conditions of those periods with the period since the adoption of the Federal Constitution, with its establishment of law and order, the spread of contentment and happiness among the masses, with its unprecedented progress in the arts and the sciences, and you not only have your answer to those whose sole right to rule rests upon the law of force, but you have the most powerful appeal that can be made by mortal man to those who would compromise or weaken the safeguards of popular power.

I am perfectly aware, as we all are, of the tide which seems to be running against popular government everywhere, of the base betrayal of the people in many countries where they once had at least some authority and hoped for more, of that profound egotism which regards as of no significance the bitter experience of men and women in their long quest for liberty. But against all these things, if we have the confidence in our form of government which we profess, we can place, not theory, not hopes, not ideals merely, but 150 years of achievement, of demonstrated popular rule, with its wealth of human happiness and human progress. How puny and hollow and fleeting in comparison are the achievements of usurped power, every hour of whose existence depends upon the continued suppression of human liberty.

And, Mr. President, in conclusion, the progress, the development, and the advancement of the South, including the last 70 arduous years, her history from Washington and Jefferson down, rich with the names of leaders, orators, and statesmen; her soil, her sunshine, her brave and hospitable people, her patient and successful wrestling with the most difficult of all problems, are all a part of the achievements of our common country and constitute no ignoble portion of the strength and glory of the American democracy. I will cast no vote in this Chamber which reflects upon her fidelity to our institutions or upon her ability and purpose to maintain the principles upon which they rest.

Mr. CONNALLY. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

| | | | |
|--------------|----------------|-----------|---------------|
| Adams | Donahay | Lodge | Schwartz |
| Ashurst | Duffy | Logan | Schwellenbach |
| Bailey | Ellender | Loung | Sheppard |
| Bankhead | Frazier | Lundeen | Shipstead |
| Barkley | George | McAdoo | Smathers |
| Berry | Gibson | McCarran | Smith |
| Borah | Gillette | McGill | Steiwer |
| Bridges | Glass | McKellar | Thomas, Okla. |
| Brown, Mich. | Graves | McNary | Thomas, Utah |
| Bulkeley | Guffey | Miller | Townsend |
| Bulow | Harrison | Minton | Truman |
| Byrd | Hatch | Murray | Tydings |
| Byrnes | Hayden | Neely | Vandenberg |
| Capper | Herring | Norris | Van Nuys |
| Caraway | Hitchcock | O'Mahoney | Wagner |
| Chavez | Holt | Overton | Walsh |
| Connally | Johnson, Colo. | Pittman | Wheeler |
| Copeland | King | Pope | |
| Davis | La Follette | Reynolds | |
| Dieterich | Lewis | Russell | |

The PRESIDENT pro tempore. Seventy-seven Senators have answered to their names. A quorum is present. The question is on the amendment, as modified, offered by the Senator from Illinois [Mr. LEWIS] to the amendment reported by the committee.

Mr. McKELLAR. Mr. President, I have known the distinguished Senator from Idaho [Mr. BORAH] for many years. I have heard him make many speeches. In all the time I have served in this body with the Senator from Idaho I have never heard him make a poor speech. Even before my service here, when I was a Member of the House of Representatives, I used to hear the Senator make speeches here and enjoyed them. I do not think he ever made a better, a more timely, a more generous, a more eloquent or a truer speech than the one he has made here today. I do not believe he could have presented the case more fairly, more honestly, more justly than it has been presented. As a southern man to a northern man, as one American to another, I want to thank him for that speech, and I believe it will be one of the longest-remembered speeches ever made in this body.

Before going further, I desire to say that I realize what a task it is to follow a speech of the kind that has just been made by the distinguished Senator from Idaho, and it is with some regret that I am so placed; but I desire to discuss today the merits of this measure, and to some extent its constitutionality.

The title of this bill, Mr. President, is—

A bill to assure to persons within the jurisdiction of every State the equal protection of the laws, and to punish the crime of lynching.

In the 21 years I have been in the Senate, it has fallen to me to oppose bills of this kind on three occasions. In 1922 substantially the same bill was introduced, and I think I may say without fear of contradiction that it was then introduced largely for political purposes. I opposed it at that time with all the vigor and determination of which I was capable, and the bill was not passed.

Later on, in 1935, substantially the same bill was again introduced. There was a long contest, and the bill was not passed.

In my judgment, Mr. President, no better conclusion could possibly have been reached in either of those instances than the failure of the bills to pass at those times. I think it was better for the Nation, better for all its people, but especially better for the people of the colored race, that the bills did not pass. So today I agree with the Senator from Idaho that this bill, if passed, will be injurious to the entire Nation, but more especially will it be injurious to the people of the colored race, for whose benefit it is asserted that it should pass.

Mr. President, the House passed the bill sometime ago, The Senate committee has stricken out the text of the House bill and reported another bill, which is in substance like the House bill, though it goes further. It is the text of the bill

as reported by the Senate committee that I wish to discuss for a while this afternoon.

Before I enter upon a discussion of the merits of the bill I wish to say that I was born and reared on a farm in southern Alabama, in the heart of what is generally known as the "black belt" of that State. In the county in which I lived when I was a boy, if I recall aright, there were between 10 and 15 Negroes to one white person. I was reared among Negroes, with Negroes all around, and, so far as I can recall, I never had a difference with a Negro in my life. I have no unkind feelings of any kind, nature, or description toward the Negroes, never have had, and never expect to have. I have the greatest sympathy and consideration for them. I played with them when a boy. My father and mother were both slave owners, and they treated the Negroes with the utmost consideration and the utmost care. They taught their sons to take the same attitude, and I hope I have never abandoned that teaching, and that I have always treated these people with the greatest consideration. I have nothing against the Negroes as a race and nothing against them as a people. I would not do them a wrong for anything in the world. When I moved from southern Alabama to the city of Memphis, Tenn., I found that there were many Negroes in Memphis. So I have lived surrounded by them, in the midst of them, all my life.

While I was a practicing lawyer in the city of Memphis, while I was not thrown with the Negroes a great deal, occasionally, in both a business and professional way, I came in contact with the colored people. I believe I have their respect, and I know they have mine, and I think I can speak with knowledge concerning them.

Not for the purpose of boasting but merely to show how I feel about the Negroes as a race, I recall that in the busy years in which I practiced law as a young man for a while I represented the sheriff of the county, and one day a colored man whom I knew came into my office and told me that a sheriff's deputy had come to his home that morning and served a writ of ouster upon him and his family, and had put his wife and all of his furniture and children out on the street, and he wondered if I could do anything for him. I immediately called the sheriff and told him to restore those goods and to put this man and his family back into possession of their home, and he did so.

I filed a bill in a chancery court against a man by the name of Grimes, if I remember aright, although I have not thought of this in 20 years, a man who came from either Missouri or Illinois, I forget which, and who had bought up tax titles against innumerable people, both white and colored. This colored man had failed to pay his taxes for 1 year, and it was to enforce a tax title that the man and his wife and his family had been ejected from the home which they had owned for many years. I filed a bill, and the chancellor granted an injunction. The case was appealed by Mr. Grimes, who had become very rich, having an income of great proportions from just such cases. I filed a bill against him. It was upheld by the chancellor, and then upheld by the Supreme Court, and from that day to this a tax title has not been held good in my State, and I think it was largely on account of the enormity of the act of this man Grimes in having this colored man dispossessed. He had no money to pay me, I did not charge him a fee, and it was expensive to take the case to the Supreme Court, but I paid the expense, because there I found a stranger to Memphis coming within her borders and undertaking to prey upon people who had failed to pay their taxes and to take property away from men and women when he had no moral right to do so.

Mr. President, I tell this story merely for the purpose of showing that as long as I have lived, with knowledge of the situation, I have never failed, when colored people around me were wrongfully treated, to lend them a helping hand. I have no prejudice against them; I have nothing but respect and esteem for the colored race that happens to be in our midst in the southern portion of our country.

At the very outset I wish to speak for a few moments about the wonderful progress that has been made by the colored people, especially in the South since the Civil War. They

started with virtually nothing in 1866, and I know of no race of people, certainly no black race anywhere on the face of the globe, that have ever made such great progress, have ever done so much for themselves, as the colored race have done for themselves since 1866. With almost nothing to start with in 1866, according to statistics they have acquired billions of dollars of property. They have schools in which they can educate their children. As I remember, in 1866, only 10 percent of the Negro race above 10 years of age could read or write. Today 80 percent of them can read or write. Wonderful progress they have made, and I respect them for what they have accomplished.

The cities of the South furnish the best of schools for the colored people, infinitely better than the schools I attended in the eighties and even in the nineties, infinitely better than the schools were for many years after the Civil War. In the city where I live there are five schools and excellent teachers for the colored people, and the progress they have made in education is a matter for which I feel they deserve great credit.

They have developed in thrift, they have improved in education, they have improved in business, they have improved in agriculture, they have improved as industrial workers. Perhaps they have improved more than anyone ever expected they would after they were suddenly given their freedom at the end of the Civil War. They have improved in the broadest sense of the term. They have taken advantage of their opportunities. They did not have the money with which to build schoolhouses, they did not have the money with which to pay teachers, they did not have the property to be taxed for such purposes; but the white people of the South taxed themselves and built schools and furnished teachers, so that the literacy of the colored people was increased from 1866 up to the time of the latest figures we have—those for 1930—from 10 percent to 80 percent. What a marvelous progress in education. And why is it desirable at this late date to take from the local authorities legal control over the lives and property of the colored man and put it into the hands of Federal authorities?

Mr. President, it is said that lynching is a horrible crime and that the Southern States do not enforce the laws against it. Every one of those States has laws against it. Every State in the Union has laws against it. But it is said the laws are not enforced in the South. I wish to call the attention of the Senate and of the country to some figures which absolutely disprove that contention. All we have to do is to look at the figures, and it is the figures with respect to colored persons that I am going to refer to now, not the figures dealing with white persons.

Mr. President, unfortunately crime has greatly increased in this country. The crime of murder generally, the crime of arson, the crime of burglary, the crime of larceny, the crime of kidnaping, crimes growing out of racketeering, crimes growing out of operations of bandits and gangsters, sex crimes of every kind have increased enormously. But what about lynching? Has the crime of lynching been increasing? I shall give the Senate figures with respect to lynching which I take from the yearbook of that great colored institution at Tuskegee, Ala., for a long time presided over by Booker T. Washington, until his death, I believe. That yearbook shows that while other kinds of crime have increased, the crime of lynching has steadily decreased.

With respect to the crime of lynching we have statistics since 1882, according to the yearbook. The crime of lynching reached its zenith, if we can so call it, its apex, its top figure, in the year 1892, when 231 persons were lynched in America. Since 1892, a period of 45 years, there has been the most remarkable decrease in the crime of lynching ever known. Steadily year by year—with an occasional small exception—the crime of lynching has decreased until last year, the year just closed, 1937, there were only eight persons lynched in the entire United States.

Mr. President, I have the figures here and I am going to call the attention of the Senate to the remarkable decrease, first as to the entire number of lynchings, and the

decreases year by year, or increases in those years when there were increases. Then I am going to call attention to the decrease in the lynchings of white persons as well as of colored persons, because this crime originally, and even yet, is not confined to lynchings of persons of the colored race.

In 1892 there were 69 white persons and 162 colored persons lynched in America, or a total, as I stated before, of 231.

In 1893 there were 34 white persons lynched in America and 117 colored persons, or a total of 151.

In 1894 there were 58 white persons and 134 colored persons lynched in the United States, or a total of 192.

In 1895 there were 66 white persons and 113 colored persons lynched in America, or a total of 179.

Mr. CONNALLY. Mr. President, will the Senator yield?
Mr. McKELLAR. I yield.

Mr. CONNALLY. I may suggest to the Senator that the lynchings which he cites were not all in the Southern States. Many of them were in the West, of cattle thieves, and in mining towns, and in the North—whites as well as blacks.

Mr. McKELLAR. I shall speak of that when I come to a discussion of the increase in the lynching of white persons in America.

Let me continue to give the figures. In 1896 there were 45 white persons lynched in America and 78 colored persons, or 123 in all.

In 1897 the number went up. Thirty-five white persons and 123 colored persons were lynched in America, or 158 in all.

In 1898 the figure went down again. Nineteen white persons and 101 colored persons were lynched, or 120 in all.

In 1899, 21 white persons and only 85 colored persons were lynched. When I say "only," I do not mean it in any other sense than to show the great reduction. That was 106 in all.

In 1900 there was a slight increase; 9 white persons and 106 colored persons were lynched, or 115 in all.

In 1901, 25 white persons and 105 colored persons were lynched, or 130 in all.

In 1902, 7 white persons and 85 colored persons were lynched, or 92 in all.

In 1903, 15 white persons and 84 colored persons were lynched, or 99 in all. It will be noted that in that particular year the white lynchings almost doubled, while there was a small recession in the number of colored persons lynched.

In 1904 there were 7 white persons and 76 colored persons lynched, or a total of 83.

In 1905 there were 5 white persons and 57 colored persons lynched, or 62 in all.

In 1906 there were 3 white persons and 62 colored persons lynched, or 65 in all.

In 1907 there were 2 white persons and 58 colored persons lynched, or 60 in all.

In 1908 there were 8 white persons and 89 colored persons lynched, or 97 in all.

In 1909 there were 13 white persons and 69 colored persons lynched, or 83 in all.

In 1910 there were 9 white persons and 67 colored persons lynched, or a total of 76 in all.

In 1911 there were 7 white persons and 60 colored persons lynched, or a total of 67 in all.

In 1912 there were 2 white persons and 61 colored persons lynched, or 63 in all.

In 1913 there was 1 white person and 51 colored persons lynched, or a total of 52.

In 1914 there were 3 white persons and 44 colored persons lynched, or 47 in all.

In 1915—Senators, listen to this—in 1915 there were 18 white persons lynched, an increase from 1914 from 3 to 18. The reason is not given. In 1915 there were 57 colored persons lynched. The total was 75 in that year.

In 1916 there were 5 white persons and 49 colored persons lynched, or 54 in all.

In 1917 there were 3 white persons and 36 colored persons lynched, or 39 in all.

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In 1918 there were 4 white persons and 60 colored persons lynched, or 64 in all.

In 1919 there were 6 white persons and 74 colored persons lynched, or 80 in all.

In 1920 there were 7 white persons and 53 colored persons lynched, or 60 in all.

In 1921 there were 4 white persons and 58 colored persons lynched, or 62 in all.

In 1922 there were 6 white persons and 51 colored persons lynched, or 57 in all.

In 1923 there were 4 white persons and 29 colored persons lynched, or 33 in all.

I stop here long enough to say that these figures from this Negro yearbook, compiled by a distinguished Negro research official of the Tuskegee Institute, giving these figures, shows that from 1882, when the first statistics were compiled, to 1924, there was not a year when no white persons were lynched in America. The yearbook shows that the number of white persons lynched is being reduced in the same way as the number of colored persons lynched is being reduced. The figure goes down in the same ratio.

I come next to the year 1924. In that year no white persons were lynched and 16 colored persons were lynched.

In 1925 no white persons were lynched and 17 colored persons were lynched.

In 1926 there were seven white persons lynched. I do not know whether that was about the time that they lynched seven white persons out in the West or not. I cannot say as to whether that is true. I will have to look it up. But in 1926 there were 7 white persons lynched and 23 colored persons lynched, or 30 in all.

In 1927 again there were no white persons lynched and 16 colored persons were lynched.

In 1928 there was 1 white person and 10 colored persons lynched, or 11 in all.

In 1929 there were 3 white persons and 7 colored persons lynched, a total of 10.

In 1930 there was 1 white person and 20 colored persons lynched, or 21 in all.

In 1931 there was 1 white person and 12 colored persons lynched, or 13 in all.

Listen to the figures for 1932. It is the first time I ever heard anything good about 1932, because it will be remembered we were in a very bad way in 1932. I think everyone who is now living remembers 1932. In 1932 there were only 2 white persons and only 6 colored persons lynched, or 8 in all.

In 1933 there were 4 white persons and 24 colored persons lynched, or 28 in all.

In 1934 again there were no white persons and 15 colored persons lynched.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point, as part of my remarks, the list of lynchings as given in the World Almanac, as prepared by Monroe N. Work, director, department of records and research, Tuskegee Institute, Alabama, and editor of the Negro Year Book.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

| Year | White | Negro | Total |
|------|-------|-------|-------|
| 1882 | 64 | 49 | 113 |
| 1883 | 77 | 53 | 130 |
| 1884 | 160 | 51 | 211 |
| 1885 | 110 | 74 | 184 |
| 1886 | 64 | 74 | 138 |
| 1887 | 50 | 70 | 120 |
| 1888 | 68 | 69 | 137 |
| 1889 | 76 | 94 | 170 |
| 1890 | 11 | 85 | 96 |
| 1891 | 72 | 113 | 185 |
| 1892 | 69 | 162 | 231 |
| 1893 | 34 | 117 | 151 |
| 1894 | 58 | 134 | 192 |
| 1895 | 66 | 113 | 179 |
| 1896 | 45 | 78 | 123 |
| 1897 | 35 | 123 | 158 |
| 1898 | 19 | 101 | 120 |
| 1899 | 21 | 85 | 106 |
| 1900 | 9 | 106 | 115 |

| Year | White | Negro | Total |
|-------|-------|-------|-------|
| 1901 | 25 | 105 | 130 |
| 1902 | 7 | 85 | 92 |
| 1903 | 15 | 84 | 99 |
| 1904 | 7 | 76 | 83 |
| 1905 | 5 | 57 | 62 |
| 1906 | 3 | 62 | 65 |
| 1907 | 2 | 58 | 60 |
| 1908 | 8 | 89 | 97 |
| 1909 | 13 | 69 | 82 |
| 1910 | 9 | 67 | 76 |
| 1911 | 7 | 60 | 67 |
| 1912 | 2 | 61 | 63 |
| 1913 | 1 | 51 | 52 |
| 1914 | 3 | 44 | 47 |
| 1915 | 18 | 57 | 75 |
| 1916 | 5 | 49 | 54 |
| 1917 | 3 | 36 | 39 |
| 1918 | 4 | 60 | 64 |
| 1919 | 6 | 74 | 80 |
| 1920 | 7 | 53 | 60 |
| 1921 | 4 | 58 | 62 |
| 1922 | 6 | 51 | 57 |
| 1923 | 4 | 29 | 33 |
| 1924 | 0 | 16 | 16 |
| 1925 | 0 | 17 | 17 |
| 1926 | 7 | 23 | 30 |
| 1927 | 0 | 16 | 16 |
| 1928 | 1 | 10 | 11 |
| 1929 | 3 | 7 | 10 |
| 1930 | 1 | 20 | 21 |
| 1931 | 1 | 12 | 13 |
| 1932 | 2 | 6 | 8 |
| 1933 | 4 | 24 | 28 |
| 1934 | 0 | 15 | 15 |
| Total | 1,291 | 3,352 | 4,643 |

Mr. McKELLAR. Mr. President, I have here another statement which gives the number of persons lynched in the United States since that time. In 1935 there were 2 white persons and 18 colored persons lynched.

In 1936 there were no white persons and nine Negroes lynched.

In 1937 there were no white persons and eight Negroes lynched.

That is the story of lynching. That is the story of the reduction in lynching as brought about by State authorities, by local authorities, by local self-government. For more than 60 years there were infinitely more people lynched per year than there are now. Under the rule of the States, under the laws of the States, under the jurisdiction of the States, what has happened? They have blotted out white lynchings entirely and practically blotted out colored lynchings. Mr. President, in my judgment, we should proceed along the same lines along which we have been proceeding since 1892, when the enormous number of 231 persons were lynched, since which time we have succeeded in reducing lynchings to a small number. However, if men are so wedded to it, if there are so many advantages in politics to be gained out of it that they cannot let it alone, yet if they will just postpone it for 3 or 4 years, at that time I do not believe there will be a single lynching of a colored person, just as there is no lynching now of white persons. Think of it! I wonder how many Senators who are now trying to put this bill upon us, who are trying to rape the Constitution of the United States, wholly disregarding it, as the Senator from Idaho has time and again stated—I wonder how many of them were for it in 1891 when there were 72 white people lynched in this country, or in 1892 when 69 white people were lynched, or in 1893 when 34 white people were lynched, or in 1894 when 58 were lynched? No one then presented such a bill as this.

Think, Mr. President, of the record that has been made. I wish to thank again the Senator from Idaho for the statement that he believes that the Southern States are doing the best they can to eliminate the horrible crime of lynching. I believe it should be eliminated. There is no man in the United States of America who wants it eliminated more sincerely than do I. It is a blot upon the name and fame of any State to have a lynching occur within its borders. I say, frankly, that if I were Governor of my State, there would never be a lynching in the State if it were humanly possible to prevent it, as I believe it is. I abhor the crime. I abhor crime generally, but particularly a crime of the nature

of lynching. I will talk about another one a little later. But I ask the Senators from Illinois and Indiana and New York and any other State to name the crime and name the government or the State that has made such marvelous progress in bringing about a decrease in crime as has been made by the Southern States in bringing about a decrease in the crime of lynching. Forty-five years ago there were 231 lynchings, but the number has constantly decreased, year by year, until last year only 8 lynchings occurred.

When we have solved the problem so far as lynching of white people is concerned, and have almost solved the problem in its entirety, what do we find? We find probably a majority of the Senate of the United States paying no attention to other crimes, tying up the business of the Senate in order to inflict a wrong and injury upon the Southern States that have done so much to eradicate the crime. I challenge any Senator on the floor, or any Senator who may come on the floor, to mention a single other crime that has been so steadily decreased, and in the same proportion, as has this crime. There are a number of Senators on the floor. I challenge any one of them who thinks that there is some other crime that has been decreased more rapidly than has the crime of lynching to stand up and interrupt me, and I will gladly yield.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. McKELLAR. I yield.

Mr. CONNALLY. Let me suggest to the Senator from Tennessee that the Senator from New York [Mr. WAGNER] and the Senator from Indiana [Mr. VAN NUYS], the authors of this bill, are not present, and, in fairness to them, at least, they ought to be invited into the Chamber and remain here to hear this discussion. I therefore suggest the absence of a quorum.

Mr. McKELLAR. No, Mr. President; do not let the Senator do that now.

Mr. CONNALLY. Insofar as the Senator was challenging Senators to reply to his statement—

Mr. McKELLAR. I am afraid their minds are closed. I have heard a few expressions from the Senator from New York; I do not think I have heard the Senator from Indiana express himself yet about it, but his bill shows what it is.

Mr. CONNALLY. Since the Senator is challenging the Senators, he cannot very well decline to afford them an opportunity to be present.

Mr. McKELLAR. I am challenging them for the RECORD. They can answer tomorrow or at any other time they please.

Mr. CONNALLY. The Senator cannot challenge them when they are over in their offices writing letters when we are staying here attending to the business of the Senate. I want to call attention to the fact that the Senator from New York, who is so eloquent with his mouth when he is here, is now busy in his office with other affairs.

Mr. McKELLAR. With the understanding that I will not lose the floor, I yield.

Mr. CONNALLY. Mr. President, I make the point of no quorum.

Mr. MINTON. I make the point that no business has been transacted since the last roll call.

Mr. CONNALLY. Business has been transacted, in that there was a reference of a bill to a committee, and other business was transacted.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

| | | | |
|--------------|-----------|----------------|-----------|
| Adams | Chavez | Harrison | McCarran |
| Ashurst | Connally | Hatch | McGill |
| Bailey | Copeland | Hayden | McKellar |
| Bankhead | Davis | Herring | McNary |
| Barkley | Dieterich | Hitchcock | Miller |
| Berry | Donahay | Holt | Minton |
| Borah | Duffy | Johnson, Colo. | Murray |
| Bridges | Ellender | King | Neely |
| Brown, Mich. | Frazier | La Follette | Norris |
| Bulky | George | Lewis | O'Mahoney |
| Bulow | Gibson | Lodge | Overton |
| Byrd | Gillette | Logan | Pittman |
| Byrnes | Glass | Loneragan | Pope |
| Capper | Graves | Lundeen | Reynolds |
| Caraway | Guffey | McAdoo | Russell |

Schwartz
Schwellenbach
Sheppard
Shipstead
Smathers

Smith
Steinwer
Thomas, Okla.
Thomas, Utah
Townsend

Truman
Tydings
Vandenberg
Van Nuys
Wagner

Walsh
Wheeler

The PRESIDING OFFICER (Mr. SCHWELLENBACH in the chair). Seventy-seven Senators having answered to their names, a quorum is present.

Mr. McKELLAR. Mr. President, just before I was interrupted I had made a challenge which I desire to repeat. I had made the statement that 231 persons were lynched within the United States in 1892, and that that number has gone almost steadily down since then, until during the past year only 8 persons were lynched. I challenge any Senator on the floor, or off the floor for that matter, or any other person, to show a single other crime in the case of which there has been any such decrease in number; and I pause here long enough to permit a reply.

I see the Senator from Indiana [Mr. VAN NUYS] present. I see another proponent of the bill, the Senator from New York [Mr. WAGNER] present. I challenge them now to name another crime in the case of which there has been a steady decrease each year, almost year by year, from 1892 until 1938, in the case of which there has been a corresponding reduction, anything like it, or anything that remotely approaches it. Indeed, I will go further in my challenge, Mr. President. I challenge any Senator on this floor to show that any other crime has decreased at all.

There are some crimes which are peculiar to one part of our country and some crimes which are peculiar to others, of course. We in the South do not have so many gangster murders and racketeering murders and other kinds of murders as there are in some other portions of our country. I have looked at the figures about gangster murders. Last year there were more than 300 gangster murders in the United States, as against eight murders by lynching; and yet when this bill came out of the Senate committee it contained an express provision—not an inferential provision, but an express provision—of this kind:

Provided, however, That "lynching" shall not be deemed to include violence occurring between members of groups of lawbreakers such as are commonly designated as gangsters or racketeers, nor violence occurring during the course of picketing or boycotting or any incident in connection with any "labor dispute" as that term is defined and used in the act of March 23, 1932.

Think of it! Over 300 gangster killings during the past year, the taking of human life sometimes in a most diabolical way, as against only 8 lynchings; and yet the committee which reports this bill reports it to the Senate excluding from its terms these 300 gangster lynchings, saying they must not be considered; leaving them out, and taking care to deal only with failure to punish the few other lynchings.

Mr. BANKHEAD. Mr. President, will the Senator yield?

Mr. McKELLAR. I yield to the Senator from Alabama.

Mr. BANKHEAD. Can the Senator from Tennessee tell us how many of the 300 gangster killings were in the city of New York?

Mr. McKELLAR. I have not the figures as to New York. I refer the Senator from Alabama to my distinguished friend the junior Senator from New York [Mr. WAGNER], who in part represents that State and, I have no doubt, knows exactly how many gangster murders occurred there last year, because there were a great many. He can give the Senator from Alabama better and more accurate information on the subject than I can. But throughout the country, and particularly in the cities, there were over 300 gang murders last year. While we may not think much about the subject, because most of us are in good health and we expect always to be in good health, the taking of human life is the taking of human life. The taking of human life by gang murder is just as hurtful to the person whose life is taken as if it were taken by lynching, and generally the crime may be said to be more hurtful, because there are so many more of the gang murders. I cannot imagine what particular motive animated the mind of any member of the committee who was willing to say, "We are going to pass

this unconstitutional bill about lynching," and yet was so very careful to excuse lynching by gangsters. I do not know why it was done. Why should it be done?

Now our distinguished and eloquent friend from Illinois [Mr. LEWIS] wants to take gangsters out of the bill. I believe it is claimed that the bill does not apply to them, anyway; but I do not know how that contention can be successfully made. Gangsters are in the bill as it now is, and there is something strange about the matter.

Senators, that just goes to show that this is a political bill. This is not a bill to enforce law. It is a bill to get votes. That is the purpose of it. The bill cannot have any other purpose. The idea of taking up the time of the Senate on three occasions in the past 15 years with a bill of this kind. Three separate bills having this purpose have been brought before this body since 1922; and, by the way, I do not wonder that the authors and supporters of the bill are anxious to have it passed as soon as possible, because if it is not passed pretty soon the States are going to see to it that there are no lynchings, and then the supporters of the bill will be in an awful fix. They will have no excuse for going before the colored voters and telling them what they have done for the colored voters. The States will have done it. We have already done it so far as white persons are concerned, and we shall do it so far as colored persons are concerned if we are just left alone.

I know that every man who is going to vote on this bill is conscientious about it. I will not say anything to the contrary on that; but I have never seen a more misguided lot of men in my life, because I know the Members of this body, and I know that each and every one of them has enough sense to know that there is no necessity for stirring up race prejudice at this time. There is no necessity or even reason for stirring up race prejudice at this time in the interest of the colored people when this crime is about to pass out of existence. It is down to its last ebb. What you are going to do, Senators, is not to decrease the number of lynchings, but my fear is that you will increase the number. Why? Because the ignorant members of the colored race—not the more intelligent members, but the less intelligent members, especially among the men of that race—will believe that they may commit any crime with impunity and that the Federal Government will protect them by the overlordship provisions of this bill. I am not a prophet, but it would not surprise me at all if there were more than eight lynchings next year, should this bill be enacted.

What I am interested in—and I know I am as honest about the matter as any other man in this Chamber—is to keep lynchings from happening. I pray to my God that there may not be a single lynching in this country during the present year. I believe the small number that occurred last year will be reduced this year if we leave the law as it is, if we leave law enforcement to the local authorities, if we leave local self-government to deal with this subject in the way it has so splendidly dealt with it during the past 45 years. In my humble judgment, never in the history of this country has a crime been so lessened, never in the history of this Government has the happening of crime dropped down to the same extent, as in the case of the crime of lynching under our present system of control.

I am going to prove that by a very distinguished authority. I have it right here. I am still reading from Professor Work's statement, compiled by the department of records and research at Tuskegee Institute, in Alabama, my native State, in 1934. In that year 15 persons were lynched, and this is what Professor Work had to say about it:

Of the 15 persons lynched, all were Negroes. The offenses charged were: attempted rape, 4; rape, 2; murder, 2; wounding man in altercation, 1; associating with white woman, 1; striking man, 1; writing insulting letter, 1; talking disrespectfully, 1; insulting woman, 1; implicating others in a charge of stealing turpentine and bootlegging it, 1.

I call the attention of the Senate to the fact that 9 of these were crimes that should have been punished, and should have been punished by the law. Nobody is more in favor of enforcing the law as it is written than I am. The

law should have taken its course. I sincerely regret that there were any lynchings at all in that year or any other year; but I desire to quote further from Professor Work when he tells us what the States are doing today.

Frequently we hear the expression that the State authorities are failing to do their duty; and this bill is aimed first at the sheriffs of the South, although it is aimed at all officials having authority. Professor Work says:

There were 51 instances—

This was in 1934. I want to show you what is being done. This is not from a white man. This is not from men hunting votes. This is from a colored man in a great institution of learning in the State of Alabama, who evidently is giving the facts and figures just as he finds them. Everybody knows that this Negro Year Book that comes out annually is a reliable authority. It is referred to by all the newspapers and magazines in the country.

Here is what Professor Work says:

There were 51 instances in which officers of the law prevented lynchings.

There is nothing in the bill about such cases. Here it is stated that State authorities prevented 51 lynchings. Who is going to do that work when jurisdiction is taken over by the Federal Government? On what officers will you depend? Will you depend on a United States marshal? He is not given authority. Who is to be depended upon to do the work to which Professor Work is referring? He says:

There were 51 instances in which officers of the law prevented lynchings.

Why are they not given credit? We have not heard a word about the credit due to these officials, but all officers, all sheriffs, if they reside in the South, are being condemned.

Why could not someone who is in favor of the bill have a pleasant thing to say, as the Senator from Idaho suggested a while ago? Why could there not be a kind word for these State officers who prevented 51 lynchings in 1934, and probably more last year? Not a kind word is said, not a word of commendation, not a word of encouragement. Oh, no, you are thinking about bigger things, you are thinking about the eight men who were lynched last year and the effect the bill will have in another way.

There were 51 instances in which officers of the law prevented lynchings. Seven of these were in Northern and Western States.

This bill is aimed at the South, aimed at the Southern States. You want to humiliate them, you want to grind us down, you want to denounce us as lawbreakers.

Seven of these were in Northern and Western States and 44 in Southern States.

I again issue a challenge. Tell me how many sheriffs have prevented gang murders in the great cities where such murders occur. Professor Work tells of 44 officers doing everything they could to prevent lynching, yet no attention is paid to them; but the bill specifically excludes lynchings by gangsters.

Mr. CONNALLY. Mr. President—

Mr. McKELLAR. I will yield in just a moment. Forty-four sheriffs prevented lynchings in the South in 1934. There were 51 instances in all, but 44 were in Southern States, 7 in Northern States. In all the States of the Union there are not 44 who tried to prevent gang murders or prevented such murders. Why are Senators so lacking in solicitude about 300 gang murders last year and so solicitous about the 8 lynchings? What is the motive behind it? What is the reason that sister States are denounced under such conditions?

I now yield to the Senator from Texas.

Mr. CONNALLY. Is it not true that in the 44 cases brave officers risked their lives in many instances to uphold the dignity of the law and to secure men charged with the most heinous and diabolical of crimes a trial in court?

Mr. McKELLAR. Of course that is true. The only appropriate comment I can think of is what the Savior of mankind once said:

Cast out first the beam out of thine own eye, and then shalt thou see clearly to cast out the mote that is in thy brother's eye.

I do not wish to question motives; but why is it that men are so much concerned about 8 lynchings and so little concerned about over 300 gang murders? It shows a peculiar trend of mind.

I look at my distinguished and beloved friend the junior Senator from Utah [Mr. THOMAS], one of the ablest men of the Senate, and one of its great philosophers, one of its great students and one of its great thinkers, a man who is really a great professor, and I wonder just from the psychological and philosophical standpoint, what is passing through his mind. How can he excuse himself for voting for a bill concerning only 8 people who are illegally dealt with, when he is perfectly content to leave out of consideration 300 people who are the victims of gang murders?

Mr. THOMAS of Utah. Mr. President, will the Senator yield?

Mr. McKELLAR. I yield.

Mr. THOMAS of Utah. I will tell the Senator exactly what was passing through my mind.

Mr. McKELLAR. I shall be delighted to hear it.

Mr. THOMAS of Utah. I was wondering, in every way that I know how to wonder, how the Senator from Tennessee could make a comparison between gang murdering and lynching.

Mr. McKELLAR. Both crimes are committed by gangs. That is why I make the comparison. A gang in the South that murders a colored man or a gang in Illinois or in Utah that murders a colored man is just the same kind of a gang. A gang in New York or Chicago or Cincinnati or any other of our great cities that takes a man out by violence and hangs him up or shoots him to death is the same as a gang down South that does the same thing. They are both gang murders. That is why I am comparing the two. If they had not both been gang murders, the committee certainly would not have reported that the bill applied only to the crime known as "lynching" and that it did not apply to crimes known as "gang murders" or "racketeer murders" or other kinds of murders.

Mr. THOMAS of Utah. I am wondering, further, whether the Senator from Tennessee does not realize the thoughts going through the minds of a mob in the South which deliberately resorts to lynching, which knows exactly what it is doing and the example it is setting in attempting to take the law into its own hands and using a type of punishment to accomplish an indirect instead of a direct purpose. The idea in the minds of such mobs is surely not merely the low, beastly idea such as that which is in the mind of a gangster. They are of a different sort. Lynching in the South, I hope, at any rate is perpetrated in an endeavor to protect virtue and set an example to make conditions better.

Mr. McKELLAR. Was the Senator ever in the South?

Mr. THOMAS of Utah. Oh, yes.

Mr. McKELLAR. Has the Senator been there for any considerable time?

Mr. THOMAS of Utah. Not for very many days.

Mr. McKELLAR. I dare say the Senator has not been there many days or he would not have asked a question such as the one he propounded. The motives which govern the mobs are exactly the same in my State and the Senator's State and in Illinois and in every other State in the Union. There is a disregard for law. In some places they have greater provocation, in some places less provocation. I have sent for the morning newspaper, and if the Senator will wait just a moment I will give him an illustration.

Mr. THOMAS of Utah. I am just wondering whether the Senator has caught my point.

Mr. McKELLAR. I am afraid I have not.

Mr. THOMAS of Utah. Has the Senator ever heard of a gang murder in the North—and I use the sectional description so that we will not become mixed in our statements—has the Senator ever heard of a gang murder in the North by which those participating thought of attempting to influence anyone else except the person killed? Is the murder committed for the purpose of setting an example, is it done

for the purpose of putting fear in the minds of others, is it done to improve conditions? Is there any deliberation in the same sense in which a mob in the South exercises deliberation?

Mr. McKELLAR. It is precisely the same. If the Senator were familiar with both situations he would know that it was. Let me tell him what happens in the South. For instance, a female is wantonly seized by three or more persons and assaulted, a crime that is known as rape. By the way, in 8 of the 15 cases of lynching in 1934 that crime had been committed. The taking of a helpless, innocent female by a gang or by one person and assaulting her incenses the people. That raises one idea in their minds. On the other hand, a gang of thugs, racketeers, gangsters, whatever they may be called, get together in a room and conclude that some bank has some money they want. They know what the consequences of robbing that bank are. If it is a house, they know what the consequences of robbing the house are. If their conspiracy is against a person, such as the owner of some dive, as frequently happens in the North, they know exactly what it means. It means that if necessary they will take human life. It is premeditated. Everyone knows it is premeditated. A crime of that kind is necessarily premeditated. Of course, the analogy between the two is justified.

Mr. THOMAS of Utah. Are there any instances among the lynchings in the South of colored people having lynched a member or members of their own race for the commission of a crime?

Mr. McKELLAR. Oh, yes; they are rare, but there are such cases.

Mr. THOMAS of Utah. Where a mob of colored people lynched a colored person for committing a crime against a white person?

Mr. McKELLAR. I am not sure about that phase of it, but there have been lynchings at the hands of colored people, I know, and I think probably in a very limited degree as the Senator has suggested in his question.

Mr. THOMAS of Utah. Does the Senator know of an example in the North—and I dislike using these sectional expressions—

Mr. McKELLAR. There is no objection to it; I am not offended at all.

Mr. THOMAS of Utah. Does the Senator know of an example among gangsters of gangsters having killed one another because one group of the gangsters belonged to one race and another group belonged to another race?

Mr. McKELLAR. I have no personal knowledge of that, but I think there are such cases. I think that in New York there have been a number of cases where the action of the gangsters was against a certain number of Italians, whom they wanted to get out of the way because they were Italians. There was a bitter feud between the members of one race and the members of another. But what difference does it make so long as life is taken by means involving bloodshed and violence? The killing of a human being is the killing of a human being; and it makes no difference whether it takes place in New York, in Utah, in Illinois, in Tennessee, in Mississippi, or in any other State.

Mr. THOMAS of Utah. That is true; but there is a difference between an ordinary killing and a lynching. The Senator will grant that, I am sure.

Mr. McKELLAR. A racketeering killing is not very different from a lynching.

Mr. THOMAS of Utah. No; but there is a difference. That is the whole point. I was wondering how anyone imagined there could be a similarity between a lynching in the South and the gangster killings in the North, both of which are bad.

Mr. McKELLAR. They are both bad. I desire to read an article which appeared in this morning's newspaper, which will probably indicate how bad they are.

Mr. CONNALLY. And whether killed as a result of gangster warfare or lynching, in both cases the victims are dead.

Mr. McKELLAR. As my friend the Senator from Texas says, in either case when they are dead they are dead. [Laughter.] Whether killed at the hands of gangsters or lynchers, they die just the same.

Senators, listen to this article, which I read with some degree of pride. A lesson is contained in it:

COLORADO JURYMAN VOTES DEATH FOR TWO OF HIS RACE IN ASSAULT
MARION, ARK.—

Marion, Ark., is a little town of some 1,200 or 1,500 people across the river about 15 or 20 miles from Memphis, where I live. This is an Associated Press dispatch which I now read:

MARION, ARK., January 6.—

That was yesterday—

An elderly colored man who helped make southern history by taking his place in a jury box to help try a rape case tonight voted with 11 white men to send two members of his own race to the electric chair on charges of criminally assaulting a white girl.

The death verdict came at the end of a 1-day trial in Crittenden County's old courtroom, packed with tense spectators. The jurors required 7 minutes to reach a verdict.

Immediately after the verdict—

Here is one important thought right now:

Immediately after the verdict was reported the prisoners were escorted back to their cells by heavily armed officers to guard against possible excitement as the aftermath of the girl victim's witness-stand appearance.

White-haired John Claybrook—

I digress long enough to say, all honor to him!—

White-haired John Claybrook, 65, wealthy colored farmer and timberman, had solemnly agreed he would vote to send the defendants to the electric chair if the State proved them guilty.

He was believed to be the first member of his race since reconstruction days to sit on a southern jury trying a rape case against colored men.

The defendants were Frank (Buster) Carter, 26, and Theo Thomas, 25, both of Memphis.

Memphis is just across the river.

The assault was alleged to have occurred in the "bottom lands" west of Memphis on Christmas night.

Another lesson is to be drawn from that article, Senators. Not only did those local officers exert every effort to protect the prisoners from mob violence, but there is in this case an underlying thought which ought to animate every Senator in this body before the bill is passed. Senators are thinking of those who committed the assault. Did it ever occur to Senators what must be the frame of mind of that poor white girl today, this very moment, this very hour? She has been assaulted, ruined in the estimation of her friends forever, her life of no practical value, her family disgraced and ruined for ever and ever.

According to the record gotten up by Professor Work, 8 of the 15 cases of lynching in 1934 were on account of rape. Did Senators ever think of that? While we are discussing this bill, while it must come ahead of the tax legislation, while it must come ahead of the farm legislation, while it must come ahead of reorganization legislation, while it is preferred over all other legislation now before the Congress, while every other kind of legislation that comes before the Congress must be held up by legislation dealing with eight crimes of lynching committed last year—while all that is being done, can we not think also of the poor victims of most of these crimes? It is true that they are women, but ought we not to have a little respect for them? Ought we not to have a little feeling in our hearts for what their lives are to be hereafter, after being thus despoiled? Ought we not to give them a little consideration? Ought we not to work out this plan by mutual cooperation between the States and with the States, rather than have the Federal Government take it over, and in that way excuse in the minds of the ignorant the crimes which bring about lynching?

Mr. REYNOLDS. Mr. President—

The PRESIDING OFFICER (Mr. LA FOLLETTE in the chair). Does the Senator from Tennessee yield to the Senator from North Carolina?

Mr. McKELLAR. I yield.

Mr. REYNOLDS. The able Senator from the State of Tennessee has just brought to the attention of this body an article which he advises us he observed in the columns of this morning's Washington Post, being the description of a colored man in one of the States of the deep South who had been a member of a jury of 12 selected by the prosecution and the defense for the trial of one of his race for the commission of an offense against the law. That incident illustrates the fact that the colored people of the South, as a matter of fact, as so ably presented by my distinguished colleague, are cooperating with the white people of the South in seeing to it that the laws of the Nation and the States are carried out.

In support of the fact that we of the South are giving every single possible protection to those of the colored race, I desire at this time, with the permission of my friend, to bring to the attention of this body an editorial which I chanced upon this morning appearing in the Saturday Evening Post of the 8th instant. The heading of this editorial is:

The South speaks a kind word for itself.

Dr. High speaks a kind word for the South on another page.

Mr. CONNALLY. Mr. President, will the Senator yield to me right there?

Mr. REYNOLDS. I yield to my friend the Senator from Texas.

Mr. CONNALLY. Is this the Dr. Stanley High, who is so well known and who has had so active a part in public affairs in recent years?

Mr. REYNOLDS. I rather imagine so. I am not sure. I do know that there is another article in this week's Saturday Evening Post written by Dr. High, in which he gives great praise to my State of North Carolina; and I imagine that he is a man well informed and highly respected by the Nation, in view of his very illuminating and accurate description of my State. I thank the Senator from Texas for that contribution. I am going to ascertain whether or not this Dr. High is the one whom the Senator has in mind.

The editorial says:

The South spoke a kind word for itself on November 29—

Just about 30 days ago—

when a jury of six white citizens of Charlotte, N. C., held for the grand jury a white policeman who had shot and killed a fleeing Negro who had a police record.

Mr. President, it is sometimes asserted that members of the colored race are mistreated in the South. That does not occur in my State. That does not occur in Charlotte. We do not have any trouble of that kind at all. We provide the colored people the same educational facilities that we provide the white people. We give them every protection of the law.

The editorial continues:

When policemen no longer can kill "bad niggers" without an accounting, Dr. High is not overoptimistic of a changing South.

William Connor, Negro, was arrested, after a chase, for stealing a suit of clothes from a store. He was searched by a policeman and a constable and turned over to two motor patrolmen to be taken to police headquarters. The arresting policemen failed to search Connor's hat. As the Negro reached the police station, he drew a knife from his hat, slashed at his captors, cutting in two the Sam Browne belt of one, and fled again. The two officers pursued and one fired, fatally wounding Connor.

The theft of the suit was attested, Connor's bad reputation was attested, but the Association for the Advancement of the Negro Race immediately termed the killing one of "unjustifiable murder," and retained white lawyers. The Charlotte City Council instructed the city manager to make a full investigation and report to the council, and councilmen attended the coroner's hearing. The coroner's jury, after 50 minutes' deliberation, brought in a verdict of unjustifiable homicide.

The killing may or may not have been justified; that can be left to the courts. The importance of the incident is that in a city and State where the Negro is politically powerless, the white citizenry and officials moved to protect the black population in those fundamental legal rights guaranteed to every man, regardless of color, creed, or station.

The prosecution of white men, even their execution, for the murder of blacks was not unusual in the South before the Civil War. The North has forgotten that lynching and other wanton

killings of Negroes are largely a heritage of that reconstruction which the North enforced upon the South.

That is what takes place in North Carolina, Mr. President.

Mr. McKELLAR. Mr. President, I think the same thing takes place generally, and as much in the South as in any other part of the Union. I think the views of Senators who live in the North and West have been greatly influenced by propaganda, and that some Senators have not had the facts before them. I know these Senators well enough to know that they would not be in favor of punishing one class of murderers through Federal instrumentality and leaving another class—a class many times larger, known as gang murderers—to go absolutely free and unwhipped of justice.

Mr. President, I wish to read all of the quotation from Professor Work:

There were 51 instances in which officers of the law prevented lynchings. Seven of those were in Northern and Western States and 44 in Southern States.

If those mobs in the Northern and Western States had effected their purpose—and they were mobs, they were gangsters just like ours were mobs and gangsters—the difference in the number of lynchings in the Northern and Western States and the lynchings in the Southern States, assuming all eight lynchings perpetrated in 1937 to have been committed in the South, would have been only one.

In 46 of the instances the prisoners were removed or the guards augmented or other precautions taken. In the five other instances armed force was used to repel the would-be lynchers.

A total of 74 persons—14 white men, 57 Negro men, and 3 Negro women—were thus saved from death at the hands of mobs.

That was in 1934. A similar situation prevailed in 1935, 1936, and 1937, except that the officers of the law have been more vigilant in later years; they are becoming more vigilant all the time. With only eight men being lynched, there is not the slightest reason for the passage of this bill as a matter of policy, or for any other reason. To my mind, Mr. President, these figures are astounding. They show the remarkable effort on the part of the officers of the law in Southern States to deal with the problem. They show, beyond question, that the only way to handle this problem is through the local State governments, through local self-government.

No means are set up in the pending bill by which it can be enforced. Just as the Senator from Idaho [Mr. BORAH] stated this morning, we can pass it here, yes; but the local district attorneys and the local marshals and the local juries have to pass upon these matters. The authors of the bill will get nowhere with it, but they think that great results will come by reason of the provision imposing fines on the counties. To my mind, Mr. President, that section of the bill is almost cowardly. The counties and the officials of the counties may not be in the slightest degree to blame and yet they have got to withstand prosecution when there is a lynching. Let me illustrate it. Suppose, instead of that rape case Christmas night in the wilds of Crittenden County, Ark., three men, either white or colored, had gone from Memphis into Marion, Ark., and strung up a man, either white or colored, without the knowledge—it might have been at night, just as this rape occurred at night—or approval of a single citizen of Marion or of Crittenden County; that county would be punished unless it could show—and the burden would be put upon the county under this bill, to show—that it was not at fault. Under the bill the county would have to put up from \$2,000 to \$10,000. It is a bill to punish the counties of the various States for what may have happened elsewhere.

Take the State of the Senator from New York. What I am about to say is not a reflection on his State; it is a mere statement of facts; but we all know certain sections of New York City are as full of gangsters as a dog is full of fleas. Suppose the proviso is eliminated from the bill and three gangsters from New York go over into New Jersey through the tube—I believe they could walk through the tube; if not, they could ride through or walk over on a bridge—and lynch a man in New Jersey. Under this bill the New Jersey au-

thorities would have to stand a suit involving a penalty of \$10,000. How far do the proponents of the bill think they are going to get with legislation such as that? How are they going to get from two to ten thousand dollars? Then, what is to be done with it? It is to be turned over, if it is obtained, to the family of the victim. Suppose that man was lynched for the crime of rape. Is it not fair to give some thought and consideration to the woman who was raped? The crime of rape is just as bad as is the crime of lynching. I challenge any Senator here to stand up and say that rape is a crime less heinous than lynching. Is there any Senator who wants to stand up and take that position? If so, I yield to him so that he may arise and defend rape as against lynching as a crime. One is virtually as destructive as is the other; one is as damnable as is the other. Here it is proposed to protect one and to give an excuse for the other. That is what this bill does.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. McKELLAR. I yield.

Mr. CONNALLY. Has the Senator noted the fact that the care of the authors of this bill has been exercised to give money damages to the victim of the mob, but the relatives of the poor woman, and the woman herself, who has been despoiled, and perhaps murdered, get nothing even in the form of damages or recovery from the author of her degradation and shame?

Mr. McKELLAR. I wish to refer to an instance. I may not be absolutely accurate as to the facts, because I read them in a newspaper at the time, though the subsequent events came under my observation. Several years ago a young woman from my State, living near the District of Columbia line, went home in a streetcar. Her house was about 200 yards, as I remember, from the end of the car line. On her way from the car to her home a colored man seized and raped her and cut off her fingers so as to get the rings she wore. We sent that lovely young lady back to Tennessee in a coffin, but the perpetrator of that dastardly crime has never been punished. I never heard a Senator say a word in behalf of that poor woman, despoiled of everything that she held dear, and then murdered; even her jewelry being taken in the hideous manner I have described. That fiend has gone unwhipped of punishment to this day.

Oh, Senators, let me appeal to you and ask why are you thinking so much of the eight men who have been lynched? Will you not cast a thought upon the poor female who is subjected to treatment worse than lynching, who is raped and then lynched? How can you give consideration and help to a man who commits such a crime without having some little degree of feeling in your hearts for the poor woman in the case? There is not a line in the bill about the poor woman; there is no proviso about the poor woman. She may be of the highest character, she may be a young, sweet, lovely, beautiful girl, but not a single solitary letter of consideration for her is found in this bill; not a single dime is provided to assuage her wounds, while the doer of the evil deed is encouraged to go further and repeat the offense.

If ever I was sincere in my life, I am sincere in the belief that this bill, instead of deterring lynching, will provoke lynching; instead of deterring crime, it will lead the ignorant and the lustful and the criminal to indulge in crime. I know Senators do not want to do that. They can say they have the votes to pass the bill, but it seems to me someone ought to rise and defend it. I do not know who wrote it. There are various stories as to how this bill reached this body. I do not know how it got here, but, as I remember, in 1922 the Judiciary Committee of the Senate reported a similar bill. That bill was reported by Samuel M. Shortridge, then a Senator from California. I uttered some challenges then. If there was a man in the Senate who believed in his heart and in his mind that that bill was constitutional, I wanted to hear from him. My able friend, former Senator Shortridge, rose and said that he believed it to be constitutional. I said, "There are 16 other members of the committee, Senator; are there any others who believe it to be constitutional?" At first he said he could not say, that the

other members of the committee would have to speak for themselves. Then he said that the then Senator Sterling thought it was constitutional. Senator Sterling, however, came on the floor and denounced the statement and said he did not believe the bill to be constitutional, but he was willing to put it up to the Supreme Court. Not another member of the committee in 1922, although they reported the bill to the Senate, believed it to be constitutional. I wish to say, in all truth and sincerity, that I was never more astonished in my life than I was the other day when I asked the Senator in charge of the bill, the Senator from New York [Mr. WAGNER], who so long adorned the bench in his State, if he really thought the bill was constitutional, and he replied that he thought it was. I do not see how any lawyer, who has the slightest knowledge of the law, can believe that this measure comes within the purview of the Constitution.

By the way, that brings me to the excuse that is given for it in the committee report.

Mr. SMATHERS. Mr. President—

The PRESIDING OFFICER. Does the Senator from Tennessee yield to the Senator from New Jersey?

Mr. McKELLAR. I am glad to yield.

Mr. SMATHERS. Did I correctly understand the Senator to say that he believed the passage of this bill would increase the crime of lynching?

Mr. McKELLAR. I think it would have that tendency. I do not know that it would increase lynching, but I think it would have that tendency, and I will tell the Senator why. The ignorant people of the country would assume that the bill was for their benefit, that it was to protect them, that it was in their favor, that it meant that the Federal Government would protect them in case they committed a crime and in that way it would tend to increase lynching in this country.

Mr. SMATHERS. Will the Senator submit to another question?

Mr. McKELLAR. Certainly.

Mr. SMATHERS. Assuming that a sheriff had in his custody an offender wanted by a mob, would not the very fact that this law was written on the statute books, and that the sheriff might be called on to spend a thousand dollars in lawyer's fees to defend himself, in itself actuate the sheriff to tell the boys to go on home and mind their own business, that the law was going to take its course in dealing with a man whom he had in his custody?

Mr. McKELLAR. I do not know that that would affect the matter very greatly, for I have no doubt that almost any good man, when a gang tells him it is going to violate the law, would say, "Go along, friends, and don't you do it. The law is here." But the Senator from New Jersey evidently did not hear the argument I made on the basis of the statement made by Professor Work, the colored statistician of Tuskegee Institute, in which it was said that in 1934 there were 51 instances in which officers of the law prevented lynchings. Seven of these were in Northern States and 44 were in Southern States. The officers of the law are now doing that; but when you put over potential offenders the cloak of this law—which many of them, especially the more ignorant of them, will regard as a Federal protection—they will indulge in the crimes that bring about lynching. Let the Senator make no mistake about that.

Mr. BANKHEAD. Mr. President, will the Senator yield?

Mr. McKELLAR. I yield to the Senator from Alabama.

Mr. BANKHEAD. On the subject under discussion, if a mob was gathering to take charge of and deal with an assailant, or however he may be described, prior to his arrest, and the sheriff saw that there was a determined mob which very likely would take the man if he did arrest him, is it not natural that the sheriff, instead of arresting the man and subjecting himself to the Federal law if the mob seized the offender and mobbed him, would simply sidestep and let the mob get the offender first?

Mr. McKELLAR. Why, of course. It is just as natural and just as straight as the martin flying to his gourd. What would happen is this: If a sheriff had on his hands a case like that, he would not take charge of the offender. He

would just step aside and let the mob take charge of the offender, and that would bring about infinitely more distress and infinitely more crime than is now being committed, especially in our Southern States; and the bill does not apply to the Northern States. As the bill is reported out, it excepts the Northern States from its provisions.

Mr. President, there is not a Senator here who disapproves of what has been done by the States in the way of reducing the crime of lynching; or, if there is such a Senator, I want him to rise and say so. I am going to ask the Senator in charge of the bill, the Senator from New York [Mr. WAGNER], whether he disapproves of the splendid work the States have done in reducing the crime of lynching from 231 cases in 1892 down to 8 cases last year. Does the Senator disapprove of it?

Mr. WAGNER. Mr. President, on the contrary, I very highly commend it.

Mr. McKELLAR. I am glad to know that the Senator does commend it. Would the Senator commend it even more if this bill should not pass, and if during this good year of 1938 there should not be a single lynching in the United States? Would not the Senator commend that?

Mr. WAGNER. Of course I would.

Mr. McKELLAR. I hope the Senator will commend that.

Mr. WAGNER. I do not want to interrupt the Senator from Tennessee.

Mr. McKELLAR. I do not object to the Senator interrupting me.

Mr. WAGNER. I am going to wait for my own time to discuss this question. The Senator says I have been silent on the question of constitutionality. I wanted to have the advantage of hearing at least the legal arguments of those who are opposing the legislation, because I am absolutely convinced of the constitutionality of the bill as it is before us. The argument the Senator from Tennessee has made shows, I think, that he has not studied every provision of the bill as carefully as he studies most things, because he is a very busy Senator; but in my own time I shall present at least the legal view. I am hopeful that we shall do away with lynching altogether, and I know the Senator from Tennessee is willing to cooperate with anybody in that regard.

Mr. McKELLAR. Indeed I am.

Mr. WAGNER. We may disagree as to method, of course.

Mr. McKELLAR. Can the Senator from New York think of any method by which there could have been an acceleration in the annual decrease in crime during the years I have enumerated, which brought lynchings down from 231 to 8? Does he know of any other crime in the country which has been reduced in the same proportion by the Federal Government or by any State government?

Mr. WAGNER. There are other phases of this matter which I shall discuss.

Mr. McKELLAR. Oh, yes; that is the trouble. There are other phases.

Mr. WAGNER. I think the enactment of this measure will altogether eliminate lynchings. I am convinced of that; and if the Senator from Tennessee disagrees with me in that regard, that is frequently the habit of good men. We have our conflict of views about various questions.

Mr. McKELLAR. Yes. The Senator from New York voted for the antikidnaping bill, did he not?

Mr. WAGNER. Yes.

Mr. McKELLAR. Certainly he did. Did the passage of that bill altogether eliminate kidnaping? How many kidnappings were there during the year 1937? Instead of the passage of that bill eliminating kidnappings, it did not even reduce them. There were just as many prosecutions for kidnaping since the Federal Government undertook to deal with the crime as when the States exclusively dealt with it. The trouble is that every crime except this one has increased, whereas this crime has been steadily decreasing almost year by year all the way along the line; and yet the Senator from New York desires to take it out of the ordinary process, take it out of the hands of the States, and put it in the hands of the Federal Government, with no means of enforcing the law after it is passed. How could it be enforced? The Senator

proposes, after a lynching occurs, to bring a prosecution against the county.

Mr. WAGNER. Mr. President, will the Senator yield?

Mr. McKELLAR. I yield.

Mr. WAGNER. Does the Senator understand that under this bill the Federal Government is to step in and prosecute those who are guilty of the crime of lynching?

Mr. McKELLAR. Of course.

Mr. WAGNER. No, Mr. President; that is left entirely to the States. The bill deals only with the officials or political subdivisions of the States who, through their willful neglect, permit lynchings to take place.

Mr. McKELLAR. Has the Senator from New York read his bill? I do not mean to be at all offensive by that inquiry, but let me read one provision of the bill to the Senator. He says there is no direct Federal offense.

Mr. WAGNER. From what part of the bill is the Senator about to read?

Mr. McKELLAR. Page 7, section 3:

Whenever a lynching of any person or persons shall occur, any officer or employee of a State or any governmental subdivision thereof who shall have been charged with the duty or shall have possessed the authority as such officer or employee to protect such person or persons from lynching and shall have willfully neglected, refused, or failed to make all diligent efforts to protect such person or persons from lynching and any officer or employee of a State or governmental subdivision thereof who shall have had custody of the person or persons lynched and shall have willfully neglected, refused, or failed to make all diligent efforts to protect such person or persons from lynching, and any officer or employee of a State or governmental subdivision thereof who, having the duty as such officer or employee, shall willfully neglect, refuse, or fail to make all diligent efforts to apprehend, keep in custody, or prosecute the members or any member of the lynching mob, shall be guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding \$5,000 or by imprisonment not exceeding 5 years, or by both such fine and imprisonment.

Mr. WAGNER. Yes; that refers to the officials.

Mr. McKELLAR. Yes. All that it is necessary to do is to find that a lynching has occurred, and at once the county officer or the State officer becomes a criminal. You make a felon out of him, whether he is the Governor of the State or any prosecuting attorney. It is a distinct crime. Does the Senator from New York know of anything in the Constitution which even hints that the Federal Government has a right to prosecute that kind of a crime?

Mr. WAGNER. Does the Senator from Tennessee withdraw the statement he has been making all afternoon that this bill invades the right of the States to prosecute those who are guilty of crime?

Mr. McKELLAR. I did not make that statement. I said that the bill creates a distinct offense, and undertakes to prosecute and to punish the officers of the law for a lynching with which they may not have a thing in the world to do.

Mr. WAGNER. If it is due to their neglect of duty.

Mr. McKELLAR. And the burden of proving that they did not neglect their duty is put upon them. The Senator will not deny that.

Mr. WAGNER. But they may establish that they were free from any negligence. The offense punished by the bill is not a violation of a provision of State law; it is a violation of the fourteenth amendment of the Constitution.

Mr. McKELLAR. The Senator and I differ entirely about that matter.

Mr. WAGNER. I think I shall be able to convince the Senator on the legal phase of the matter, if not on the desirability of the legislation.

Mr. McKELLAR. I happen to have in my hands the provision of the Constitution to which reference has been made. This is the constitutional authority which the report gives for the enactment of the bill; and since the Senator has raised that question I shall be very happy to come to it right now.

The report says:

BASIS OF BILL

The legislation here proposed rests for its authority on the due-process and equal-protection provisions of the fourteenth amendment.

Those provisions are as follows—

This is a quotation from the Senator's own report.

Mr. WAGNER. The report of the Judiciary Committee.

Mr. McKELLAR. I read from the report:

No State—

Not "no officer of a State," not a sheriff, not a marshal in charge of a prisoner, but—

No State shall make or enforce any law—

The Senator from New York cannot have looked at it carefully.

Mr. WAGNER. Oh, I did!

Mr. McKELLAR. Listen to this:

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State—

Not an official of the State—

nor shall any State—

By legislation—

deprive any person of life, liberty, or property, without due process of law; nor deny to any person—

That is, no State shall deny to any person—

within its jurisdiction the equal protection of the laws.

That is no foundation for a bill punishing State officers for a crime that is made such by this bill.

Mr. WAGNER. Mr. President, may I ask the Senator a question?

Mr. McKELLAR. Certainly; I yield to the Senator from New York.

Mr. WAGNER. May I ask the Senator through whom the State acts?

Mr. McKELLAR. The State acts through its officials.

Mr. WAGNER. Exactly.

Mr. McKELLAR. Precisely; but this bill does not say, "The State, acting through its officials."

Mr. WAGNER. That is the only way in which it can act.

Mr. McKELLAR. Listen to this:

No State shall make or enforce any law—

What law is the Senator talking about that he seeks to correct? There is not any law that the Senator is undertaking to correct.

Mr. WAGNER. That part of the report is reciting the fourteenth amendment.

Mr. McKELLAR. Yes; it is.

Mr. WAGNER. Read down further:

nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Mr. McKELLAR. There is not the slightest statement in the bill which I have been able to find—if there is, I should like to have the Senator put his finger on it, and I will yield to him for that purpose—that any law passed by the legislature of any one of the 48 States denies to any person within its jurisdiction the equal protection of the laws.

Mr. WAGNER. That is not necessary.

Mr. McKELLAR. The State does not do it.

Mr. WAGNER. Of course not. No State would pass a law authorizing or permitting lynching. That is not the point here. The bill deals with according to persons within a State the equal protection of the laws and due process of law. May I refer the Senator to the Scottsboro case. In that particular case, the judge who presided at the trial, as the United States Supreme Court has held, was guilty of giving a very unfair trial to the defendants. He was probably acting contrary to the laws of his own State; but he being an official of the State, the Supreme Court said that was the action of the State, because a State acts only through its officials. Therefore, without any express statute, the Supreme Court took jurisdiction, and held that since that individual was an official of the State, he represented the State in failing to comply with the requirements of due process and equal protection, and therefore, that the State violated the provisions of the fourteenth amendment, which the Senator just read. The Supreme Court sent the case back. There was an intervention without any legislative act, be-

cause there was a record of the proceedings upon which the Court could base its decision. That answers the Senator's question.

Mr. McKELLAR. Oh, no, it does not. If the Senator will yield to me for a moment, I will show him that it does not answer the question at all.

Under our dual system of government, where a Federal question is involved, and it is tried by the State court, the nisi prius court, as it was in the Scottsboro case, which case went to the Supreme Court—

Mr. WAGNER. No.

Mr. McKELLAR. Yes; it did.

Mr. WAGNER. The ground of jurisdiction of the Federal court was the fourteenth amendment, which was violated when the judge did not afford the defendants due process or the equal protection of the laws.

Mr. McKELLAR. When the Supreme Court of Alabama determined for the State of Alabama what the law was in their opinion, then, that having been the act of the State of Alabama, of course, the Federal question was raised, under the provision of the Constitution cited, and the Supreme Court of the United States had the power to review the decision, and it did review it. But the bill does not refer to a State; it refers to an official, an administrative official, not a court, but an administrative official, which is a wholly different thing.

Mr. WAGNER. Mr. President, will the Senator tolerate me for a moment?

Mr. McKELLAR. Certainly; I should like to hear what the sponsors of the bill think about this question.

Mr. WAGNER. Perhaps I should read the whole of this decision.

Mr. McKELLAR. Yes; I think it will take more than the whole of it, even. It will necessitate another opinion of the Court to justify the Senator's position.

Mr. WAGNER. I agree with the Senator; I am afraid I cannot persuade him; but all I can do is read what the Court said. The Court stated:

It is doubtless true that a State may act through different agencies, either by its legislative, its executive, or its judicial authorities; and the prohibitions of the amendment—

That is, of the fourteenth amendment—

extend to all action of the State denying equal protection of the laws, whether it be action by one of these agencies or by another. Congress, by virtue of the fifth section of the fourteenth amendment, may enforce the prohibitions whenever they are disregarded by either the legislative, the executive, or the judicial department of the State. The mode of enforcement is left to its discretion—

Meaning Congress. Later on I will cite other cases.

Mr. McKELLAR. Inasmuch as the Senator has expressed the view that gang murders are to be included in the bill, suppose three gangsters in the Senator's own county take a man away from an officer, just as is referred to in the bill, and lynch him; and the measure now under consideration is brought into play; and then, after the act is committed, the State undertakes to punish those very people. What would become of the law we are considering under those circumstances?

Mr. WAGNER. The State would punish whom? I did not understand the Senator's question.

Mr. McKELLAR. In the Senator's State, as in mine, if a prisoner is taken from an officer by a mob and killed it is a State offense.

Mr. WAGNER. Yes.

Mr. McKELLAR. Suppose, after this measure becomes a law, the State does not act as fast as the Senator thinks it might—it might be previous to an election, or something of that sort—

Mr. WAGNER. Let us forget the election for the moment.

Mr. McKELLAR. We will forget the election for the moment, but suppose for any reason the State does not act as fast as the Senator thinks it should act, and suppose the Senator is the judge—

Mr. WAGNER. Suppose I am the sheriff.

Mr. McKELLAR. Very well; suppose the Senator is the sheriff, and a Federal proceeding is brought. Suppose the

State sets in motion the necessary State machinery, and the men are tried and convicted of taking a man away from an officer; what would the Senator do under his law? It is so involved, I do not know what he would do.

Mr. WAGNER. It is very simple.

Mr. McKELLAR. What would he do?

Mr. WAGNER. The Senator will find it simple when he reads it.

Mr. McKELLAR. I yield to the Senator.

Mr. WAGNER. Let me see if I can get the facts of the hypothetical case which the Senator cites. A lynching takes place in my own State, the Senator says.

Mr. McKELLAR. In the Senator's own county.

Mr. WAGNER. Some gangsters—we call them "gangsters"—take a man out and lynch him. If any peace officer of the State having jurisdiction over the particular individual who was lynched willfully neglects to apprehend him or hold him in custody, and through his neglect the gangsters get hold of the individual and lynch him, he becomes guilty under the proposed law, and would be punished by the Federal authority because he violated the fourteenth amendment, and would have violated the provisions of the act. It does not matter where it occurs.

Mr. McKELLAR. The Senator evidently misunderstands the question I have asked him. Suppose a high-minded official of some State, any State, the Senator's State, for instance, the State prosecuting attorney, the man whose duty it is to draw indictments—

Mr. WAGNER. Draw indictments?

Mr. McKELLAR. Yes.

Mr. WAGNER. That has nothing to do with apprehending a criminal.

Mr. McKELLAR. It is a violation of law in the Senator's State.

Mr. WAGNER. What?

Mr. McKELLAR. If a mob takes a man from the authorities—

Mr. WAGNER. Yes.

Mr. McKELLAR. The authorities are guilty of a crime. Suppose the State undertakes to prosecute and does prosecute and finds the man guilty; is the Federal Government going to find him guilty again? Suppose the State performs the very duty that is put upon the Federal Government by this measure, and a man is indicted and tried and convicted for letting a prisoner go, and is fined or otherwise punished.

Mr. WAGNER. If the State acts, there is no reason for the intervention of the Federal Government.

Mr. McKELLAR. It does not say so in the bill.

Mr. WAGNER. The Federal Government never does intervene, as the Senator knows. If the Senator will read the record of the cases of lynching, he will find that only one-eighth of 1 percent of the perpetrators of the crime have ever been convicted.

Mr. McKELLAR. In the Senator's State?

Mr. WAGNER. No; in the history of lynching cases, the entire history. There is no such record as that.

Mr. McKELLAR. Assuming all the lynchings in the last year were of colored men, there was one lynching to over a million colored citizens. Those are the facts.

Mr. WAGNER. Even one is too many.

Mr. McKELLAR. I agree with the Senator that one is too many.

Mr. WAGNER. If we can prevent it.

Mr. McKELLAR. Yes; if we can prevent it. But when we find the States doing everything in the world they can to prevent it, why should we interfere?

Mr. WAGNER. I do not wish to discuss this question piecemeal, but statements have been made to the effect that we are interfering, in the proposed legislation, with the prosecution of criminals by the States. The bill has nothing to do with the prosecution of criminals by the States, nor does it in any way interfere. The bill deals only with the officials of a State who, through their willful neglect, permit a lynching to take place, and that is not only a State offense,

but that is a Federal offense, as all the decisions of the United States Supreme Court will persuade the Senator if he will read them. It is only because of the Federal offense which takes place, when equal protection of the law is not given to persons within the State's jurisdiction, that we are dealing here with the subject at all.

Mr. McKELLAR. Mr. President—

Mr. WAGNER. I know the Senator does not agree with me—

Mr. McKELLAR. The Senator does not understand the question I am asking at all. This is what the bill provides:

Whenever a lynching of any person or persons shall occur, any officer or employee of a State or any governmental subdivision thereof who shall have been charged with the duty or shall have possessed the authority as such officer or employee to protect such person or persons from lynching and shall have willfully neglected, refused, or failed to make all diligent efforts to protect such person or persons from lynching and any officer or employee of a State or governmental subdivision thereof who shall have had custody of the person or persons lynched and shall have willfully neglected, refused, or failed to make all diligent efforts to protect such person or persons from lynching, and any officer or employee of a State or governmental subdivision thereof who, having the duty as such officer or employee, shall willfully neglect, refuse, or fail to make all diligent efforts to apprehend, keep in custody, or prosecute the members or any member of the lynching mob, shall be guilty of a felony, etc.

That is the State law in nearly all the States in substance. I do not mean the State laws are drawn in those exact words, but in substance that is the State law in all the States. I am sure it is in mine, and I think it is in all the States.

Does the Senator intend that this measure shall apply and the Federal Government go ahead and prosecute people under it, although they may have been prosecuted before under State law?

Mr. WAGNER. If an individual has already been punished for a crime which he has committed, he will not be punished again. That is so axiomatic and trite that I hesitate to assert it.

Mr. CONNALLY. Mr. President, will the Senator from Tennessee yield?

Mr. McKELLAR. I yield.

Mr. CONNALLY. The Senator from New York says it is axiomatic and trite; and to show there is nothing to his contention at all, a crime may be a crime under a State law and a crime under a Federal law, and the party may be punished under both laws for the same offense because of the separate jurisdictions.

Mr. McKELLAR. There is nothing more trite than that.

Mr. CONNALLY. The doctrine of jeopardy applies only to the same jurisdiction. I am surprised that the Senator from New York, who poses here as a great constitutional lawyer and whose name is whispered around as a candidate for the Supreme Court, does not know that fundamental principle, which any justice of the peace lawyer in my State knows; that is, that the Federal Government can punish for the same act for which the State punishes, provided it is a crime.

Mr. McKELLAR. If it is a crime under the Federal law, the one who commits the crime can be punished under the Federal law; and if it is a crime under the State law, he can also be punished under the State law. I say that one should not be punished under both laws, and there should be some provision in the Senator's bill, under any circumstances, which would prevent such a hardship upon anyone.

Mr. WAGNER. Mr. President, I shall not press the point any further now, but I suggest that if there is any whispering about my candidacy for the Supreme Court it has not been by the junior Senator from Texas.

Mr. CONNALLY. Mr. President, I may say that there has not only been whispering but lots of laughing.

Mr. WAGNER. I can understand that.

Mr. McKELLAR. Mr. President, I desire to analyze the bill a little. I wonder how many Senators have read the bill through. Will they hold up their hands? I count three.

Mr. WAGNER. Has the Senator read it? [Laughter.]

Mr. McKELLAR. Yes; I have. Did the Senator from New York hold up his hand?

Mr. WAGNER. Yes; I held up my hand.

Mr. McKELLAR. He ought to read his own bill. I did not see the Senator's hand raised. I did see three hands raised. When I asked how many had read the bill, only three Senators held up their hands.

Mr. WAGNER. Mr. President, there are not more than three or four of us here.

Mr. McKELLAR. I will count them. I want to be frank. There are 13 Senators present. Three out of the 13 have read the bill, and there are only 13 here now.

Mr. REYNOLDS. Mr. President, will the Senator from Tennessee be good enough to name the Senators who held up their hands? I should like my constituents who read the CONGRESSIONAL RECORD to know the names of those Senators.

Mr. McKELLAR. The Senator from North Carolina held up his hand. There is no question about that.

Mr. CONNALLY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. NEELY in the chair). Does the Senator from Tennessee yield for that purpose?

Mr. McKELLAR. Yes.

Mr. BARKLEY. Mr. President, a parliamentary inquiry, in order to settle that question.

The PRESIDING OFFICER. The Senator will state it.

Mr. BARKLEY. The last point of order that no quorum was present was made during the speech of the Senator from Tennessee [Mr. McKELLAR], when he yielded for that purpose. The question naturally arises whether business has been transacted since the last call.

Mr. McKELLAR. Mr. President, will the Senator yield to me?

Mr. BARKLEY. In just a moment. The only business that has been transacted, if it is business, was the insertion in the RECORD of an article of some kind presented by the Senator from California [Mr. McAdoo]. If, under the rules of the Senate, that is the transaction of business, I have no point to make on it. I simply want to ascertain the fact whether under the parliamentary rules that does constitute the transaction of business.

The PRESIDING OFFICER. The present occupant of the chair will say, in response to the parliamentary question asked by the Senator from Kentucky, that through the alertness of the efficient Parliamentarian, Mr. Watkins, a decision in point is now before the Chair. It is to be found on page 6621 of the CONGRESSIONAL RECORD for April 30, 1935, on which page the following colloquy appears:

Mr. CONNALLY. Would the printing in the RECORD of any communication which requires the consent of the Senate that it be done be the transaction of business?

The VICE PRESIDENT. In the opinion of the Chair, that would be the transaction of business.

Mr. BARKLEY. In that connection the Chair would rule that there has been business transacted?

The PRESIDING OFFICER. In view of the fact that it is stated that a request was made for consent to print certain material in the RECORD, and that the request was granted, in the light of this decision the Chair would be obliged to hold that business has been transacted.

Mr. BARKLEY. Mr. President, while I am on my feet I wish to make a further inquiry. In the same connection the Vice President made a ruling that when a request was made for the insertion of something in the RECORD, and objection was made, that did not constitute business, and would not be ground for asking for a new roll call.

The PRESIDING OFFICER. That is true; provided the objection was sustained.

Mr. McKELLAR. Mr. President, I wish to say that I have not anywhere nearly finished my speech, and I do not care a thing in the world about having a roll call at this time, of course. It is absolutely immaterial to me whether a roll call is had or not. The proponents of the bill evidently feel that they do not have to argue the case, and that it is a matter which they can simply carry by force of numbers; so the

question of raising the point of no quorum is immaterial to me. I shall be glad to go on, or to suspend my remarks in order that a roll call may be had, whichever the Senator from Texas desires. However, I do not want to be taken off the floor.

Mr. CONNALLY. Mr. President, the Chair has sustained the point of no quorum. We are entitled to a quorum call. I am amazed that any question should be raised about it.

The PRESIDING OFFICER. The Chair has sustained the point of no quorum, and a roll call has been ordered. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

| | | | |
|--------------|----------------|-----------|---------------|
| Adams | Donahey | Lodge | Schwartz |
| Ashurst | Duffy | Logan | Schwellenbach |
| Bailey | Ellender | Loneragan | Sheppard |
| Bankhead | Frazier | Lundeen | Shipstead |
| Barkley | George | McAdoo | Smathers |
| Berry | Gibson | McCarran | Smith |
| Borah | Gillette | McGill | Steiwer |
| Bridges | Glass | McKellar | Thomas, Okla. |
| Brown, Mich. | Graves | McNary | Thomas, Utah |
| Bulkley | Guffey | Miller | Townsend |
| Bulow | Harrison | Minton | Truman |
| Byrd | Hatch | Murray | Tydings |
| Byrnes | Hayden | Neely | Vandenberg |
| Capper | Herring | Norris | Van Nuys |
| Caraway | Hitchcock | O'Mahoney | Wagner |
| Chavez | Holt | Overton | Walsh |
| Connally | Johnson, Colo. | Pittman | Wheeler |
| Copeland | King | Pope | |
| Davis | La Follette | Reynolds | |
| Dieterich | Lewis | Russell | |

The PRESIDING OFFICER. Seventy-seven Senators having answered to their names, a quorum is present.

Mr. O'MAHONEY. Mr. President, will the Senator yield?

Mr. McKELLAR. I yield.

Mr. O'MAHONEY. Mr. President, on December 14 last, at the national conference of the National Woman's Party in the city of Washington, Mr. Raymond Gram Swing, a nationally known editor and lecturer, delivered a most interesting and effective talk upon The Business Cycle and Women. I ask unanimous consent that this paper may be printed in the RECORD.

Mr. REYNOLDS. Mr. President, I ask unanimous consent—

The PRESIDING OFFICER. Does the Senator from North Carolina object?

Mr. BARKLEY. Mr. President, was consent granted to the Senator from Wyoming?

Mr. O'MAHONEY. That was my understanding.

Mr. BARKLEY. I shall not raise the point in this instance, but, inasmuch as the Chair has held that during a speech being delivered on the floor the insertion by unanimous consent of anything in the RECORD constitutes business, which may justify later a point of no quorum, I feel that these matters can be inserted at other times and that they ought not to be inserted during the delivery of speeches. I am not going to object, however, in this instance.

Mr. O'MAHONEY. Mr. President, I would not have made the request had I understood the parliamentary situation.

Mr. BARKLEY. There will be ample opportunity to insert such matter in the RECORD before the Senate adjourns or takes a recess.

The PRESIDING OFFICER. Without objection, the matter referred to by the Senator from Wyoming will be printed in the RECORD.

Mr. McKELLAR. Mr. President, when I was interrupted I had just reached the point where I wanted to analyze the several sections of the pending bill. Section 2 contains really the gravamen of the bill. I read it as follows:

SEC. 2. Any assemblage of three or more persons which shall exercise or attempt to exercise by physical violence and without authority of law any power of correction or punishment over any citizen or citizens or other person or persons in the custody of any peace officer or suspected of, charged with, or convicted of the commission of any offense, with the purpose or consequence of preventing the apprehension or trial or punishment by law of such citizen or citizens, person or persons, shall constitute a "mob" within the meaning of this act. Any such violence by a mob which results in the death or maiming of the victim or victims thereof shall constitute "lynching" within the meaning of this act.

As I stated awhile ago, the committee in its report bases the constitutionality of the bill solely on the following provision of the Constitution:

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

The Senator from New York says that provision applies to citizens who happen to be administrative officers in the States. I submit the distinguished Senator from New York is mistaken as to that. It is not contended for a moment by anyone that any State has made or has enforced or attempted to enforce any law abridging the privileges or the immunities of citizens of the United States, nor is it argued or attempted to be argued, nor can it be argued, that any State has deprived or intends to deprive any person of life, liberty, or property without due process of law; nor has any such State denied to any person within its jurisdiction the equal protection of the laws. It was never intended in the remotest degree that the crime of taking a prisoner away from an officer in a State should come within the purview and control of the Federal Constitution and Federal authority. I challenge the Senator from New York to show me a word in the Constitution that sanctions any such contention. The only reference which can be made is to the provision of the Constitution which prohibits the States from passing through their legislatures or having finally affirmed by their courts of last resort any law abridging the privileges or immunities of citizens of the United States. Any such law is prohibited, but the Senator from New York would undertake to deprive the States of their control of their local self-government.

The whole constitutional theory on which this bill rests collapses, Mr. President, whenever the light of reason is focused on it. Every State in the Union has enacted laws prohibiting the taking of a prisoner from the custody of peace officers or preventing the apprehension or trial or punishment by law of a person charged with crime.

There is not the slightest question that the State has the power to deal with such crime; it has been done for 150 years; and only the Senator from New York and the Senator from Indiana have finally found that the Federal Government, in some inexplicable manner, without any provision of the Constitution, has the right to invade the authority and constitutions of the States. That the United States Government has such power is not hinted at in the Constitution; there is nothing in the Constitution about it. There is no Senator present who can put his finger on the provision of the Constitution which would authorize a bill such as that now pending before the Senate.

The provision of the Constitution to which reference has been made has not the slightest application to what is intended to be done by this bill. On the contrary, the very wording of the Constitution specifically excludes the assemblage of "three or more persons" referred to in the act.

If, under this pretext of authority, a county can be punished for permitting a lynching, why cannot the Federal Government take supervision over all the criminal laws? Why can it not be said that if three or more gangsters kill another person and such gangsters are not apprehended and punished, the counties shall be fined as in the case of a lynching? Why could not it be said if three or more racketeers kill a person or commit any other crime and are not apprehended and punished, the county shall be liable to a fine? Indeed, a majority of members of the Judiciary Committee evidently thought that gangsters and racketeers were included, because they put a clause in the bill specifically excluding them. If such a law can be applied to lynchings or gangsters or racketeers, why cannot the same rule be applied to any three or more people who engage in a labor dispute, in the course of which some person is killed, and why cannot the county be fined for the killing? Such occurrences were attempted to be excluded, showing that the committee thought that such deaths by violence could be supervised by the Federal Government. Why could

not the bill also include the crimes of burglary, larceny, breach of trust, assault and battery, or any other crime? If the Federal Government has the power thus indirectly to punish for lynching, then it has a similar power to punish for any other crime which the Congress saw fit to include in the provisions of the law.

I am not surprised when I find that this bill is not being measured by the Constitution; that it is being measured by some other force. Where that force comes from I do not know. As I recall, there were 13 Senators present in the Chamber a while ago. I challenged every Senator at that time who had read the bill to hold up his hand, and there were only 3 hands out of 13 held up. I do not know what the ratio of the whole Senate would be. But the Senators are not voting for this bill under their oath under the Constitution. They are voting for this bill because of propaganda. Some say it is one thing and some say it is another. I am not going to tell tales out of school, but I remember when a similar bill was brought before the Senate on a prior occasion—and bills such as this have been here ever since I have been a Member of the body—that one of the leading Members of the Senate at that time told me that he did not approve the bill; that he did not think it was constitutional; but he said he would be defeated in his State unless some action were taken on it. Action was not taken on it; but, as he was reelected by only a very slim majority, someone must have undertaken to punish him.

I do not know why some of the Senators should be so strongly in favor of this bill when they do not even do the bill the credit of reading it; when they do not examine its provisions.

Mr. CONNALLY. They are afraid to read it.

Mr. MCKELLAR. The Senator from Texas suggests that they are afraid to read it. I do not see how any man who attempts properly to perform his duty could read this bill and then vote for it. It is utterly inconceivable to me that anyone who has ever read the Federal Constitution could for a moment imagine, much less believe, much less feel sure, that the bill is constitutional. I do not see how anyone could imagine it to be constitutional. If this bill is constitutional, then the Federal Government has the power to punish any State for permitting crap shooting. If a couple of colored boys in my State were to shoot craps the Federal Government could make that act a crime and send down there an officer and arrest and punish them for shooting craps or for violating any other law. In other words, if the principle of this bill is correct, we have no State rights; State rights pass out of the picture; the Federal Government may control everything. There ought to be but one government; the whole system of dual government of States and the National Government are absolutely destroyed if the policy of this bill is accepted as the law of the land. Of course, it will not be accepted. I think that is the way many Senators think that they will get out of the dilemma; that they will vote for the bill and then let the Supreme Court declare it unconstitutional. That may be the way to get out of it; I do not know; but that is not the way for us to get out of it. In my judgment, the people will forgive a man if they think he is doing right. I remember when our good friend former Senator Shortridge took the same position some of the proponents of the present bill are now taking he thought it would aid in returning him to the Senate; but his place has long been filled by another. I do not believe there is much force in such a contention.

Every State in the Union has a law prohibiting taking a prisoner from the custody of a peace officer. Why do Senators want to double up on their own States? Take the State of the Senator from Alabama. That State has a provision in its law, in substance, the same as that in the pending bill, making it an offense to take a prisoner away from the custody of an officer.

The State authorities can punish those guilty of such an act, and they do punish them. What is the reason behind this bill? Why is it that Senators claim that the bill is going to pass by an overwhelming majority, and yet they have not even taken the trouble to read it?

A bill ought to be read by a Senator before he votes for it. There are very few justifications for a bill passing this body without being read. I am quite sure that nine-tenths of the Members of this body did not know that gangsters and racketeers were exempted from the provisions of the bill until that fact was brought out here on the floor of the Senate. I presume it would be undignified to address this question to Senators—and I do not want to put my brethren in an undignified position—but, frankly, if the question were put to them, "Are you in favor of passing a bill that will deal with the crime of lynching when only eight instances of it occurred last year, and will not deal with the crime of murder by gangsters, of which over 300 instances took place last year?" I doubt if there is a man or a woman in this body who would vote to enact the one and to exclude the other; and yet that is what this committee reported in favor of doing. I am wondering whether any member of the committee voted for it.

I remember that in 1922, when a similar bill was reported out by former Senator Shortridge, it was found that the committee had not voted on it. They just let the bill be reported out. Senator Shortridge was anxious to report out the bill. He thought it would do him a great deal of good in his State, and the bill was reported out. The result was that the fine old gentleman who reported the bill did not get by with it. He lost out on it in the Senate; and then, marvelous to relate, when he went back home the very folks he had voted for and worked so hard for went back on him and he was defeated.

Senators, it is just a question of what is right. What have you against your States, that you want to take away their rights? What have you Democrats—and I want to be a little more direct—against States' rights and local self-government, for which you have always stood? What have you against them, that you want to take away the rights of the States and put them in the hands of the Federal authorities?

If it would work some marvelous good there might be some excuse for your position; but you have left this problem right here in this body for all these 45 years. At a time when there were 231 lynchings of white persons and colored persons in a year, you never did a thing about it; but now it is proposed to take action at a time when the States are about to solve the problem, and lynchings are about to occur no more. I hope we shall never have another lynching; and we shall not have any more of them if we can prevent the passage of any such ill-advised bill as this. It is a foolish bill; it is a useless bill; and in my judgment it is going to stir up more trouble than you ever dreamed of. Every State has laws on the subject, and they are working well. They are the only criminal laws we have that are working well, either State or Federal.

Take the case of the law against kidnaping: The Federal Government took over that subject, and yet we had more kidnapings in 1937 than in 1936, and we had more in 1936 than in 1935. We did not do any good with that law; and, incidentally, we are spending about \$5,000,000 annually to help enforce it. We are spending a great deal of money to enforce the antikidnaping law. That is the principal thing that is being done under it. What good has it done? Why do we waste our time over this subject under the wild idea some persons may have that this bill, which last year would have applied to only eight persons in the entire country, deals with a subject that needs further enforcement?

Mr. President, it is perfectly axiomatic—as the Senator from New York [Mr. WAGNER] said awhile ago about another matter which was not axiomatic at all—that if we have the right to try a man for killing another by lynching, or to supervise his trial, we have a right to supervise the trial of a man for murder by lying in wait, for murder by poison, for murder by shooting, for murder by the use of a knife, or any other kind of murder, or any other kind of violation of a State law. Of course it is axiomatic; and such a thing never ought to be done.

I now come to section 3 of the bill, which makes guilty of a felony—

Any officer or employee of a State or any governmental subdivision thereof who shall have been charged with the duty or shall

have possessed the authority as such officer or employee to protect such person or persons from lynching and shall have willfully neglected, refused, or failed to make all diligent efforts to protect such person or persons.

Somebody said it had to be some act of the officer or some dereliction on his part. If he merely fails to protect the person, the authority of the United States comes in, and he is fined or imprisoned.

Mr. President, in 1931 there were 13 murders by lynching. In 1937 there were 8 murders by lynching. In 1931 there were 2,911 murders of other kinds in the cities of the country having more than 100,000 population. Under the proposed law, if all of the 2,911 prisoners had been taken from the officers of the State or county, there would have been no offenses against the Federal law. The offenses against the Federal law would have been simply the 13 crimes of lynching, or, in the case of last year, the 8 crimes of lynching.

If the United States can punish a sheriff or other custodial officer of a State for failure to do his duty, why can it not punish the Governor of the State? Are we going to do away with our Governors? Are we going to put them in jail? If a crime is committed in a State, are we going to do away with the officers of the State, fine them and punish them, and send them to jail? What are we thinking about? Here we are asked to pass a bill which would authorize the Federal Government to step in and fine the Governor of a State from \$2,000 to \$10,000 and put him in jail for not exceeding 5 years. How would you like to have that happen in your State?

The Governor of my State is not very friendly to me, and I am not exceedingly friendly to him, but I am not that much opposed to him. Even though I do not care particularly for the Governor of my State, I would not have him put in jail for 5 years because a lynching took place in Tennessee; and yet I want to say that I am so much opposed to lynching that if I were Governor of a State I never would permit a lynching to take place in it. What I have said shows how far we are going under this bill.

If the United States can punish sheriffs and Governors in the way I have stated, why can it not punish the treasurer of a State who absconds with the State's money? Why can it not punish the attorney general of a State who willfully refuses to do his duty, or any other officer of a State who fails or neglects willfully to do his duty? If the United States can thus take over the right of the States to punish for crime or failure of State officers to do their duties, why does not that turn over to the Federal Government entire control of the States?

The Senator from Idaho [Mr. BORAH] was entirely right about the matter in his speech today. The Senator from Idaho is a very wise man. He has a very splendid brain. He is honest with himself, and he is honest with others, and he is not afraid of what his action and votes will do to him politically. I said the other day, in speaking of the senior Senator from Virginia [Mr. GLASS], that the question of politics had not concerned him and need not concern him; he would be elected in Virginia under any circumstances. Why? Because he has the courage to do what he believes is right, and to do what he believes the Constitution and laws require him to do.

Senators, let us not be carried away by fear of losing position, or failing to be nominated, or failing to be elected. Let us do our duty under the Constitution as we see it. Let us not do it by closing our eyes and failing to read a bill that is before us. Let us do it after reading the bill and after considering it carefully in all of its provisions.

Mr. President, I say there is absolutely no power in our Federal Government upon which this bill can be based.

Section 5 of the bill, which punishes the counties or other governmental subdivisions of a State for permitting the crime of lynching to happen within its jurisdiction, by fining the county not less than \$2,000 nor more than \$10,000 for the benefit of the next of kin, is so patently outside the power of the Congress that if it were not a serious question it would be laughable. How any lawyer—and I speak with due respect to those who reported this bill—could believe, after

having read the Constitution of the United States even casually, that such a provision is constitutional it is difficult to understand.

The county is an integral and well-defined part of a State. Three persons may get together and overpower an officer and lynch a person in the custody of the officer. Those three murderers may be from Asia, or Africa, or any other foreign country in the world. Every single citizen of the county—every man, woman, and child in the county—may be absolutely opposed to the lynching of the person; and yet, under the terms of the bill, if the county officers failed in their duty in the slightest degree, the property of the people of the county to the extent of \$10,000 may be taken from them and given over to the family of the person lynched.

Three racketeers from Chicago, or three gangsters from New York City, might come down to Memphis and lynch a person. Three tramps from Missouri might get on a Frisco train and come down from St. Louis and lynch a person in Shelby County, Tenn., without the knowledge, approval, or consent of a single citizen in Shelby County; and yet the county would be liable to the family of the lynched person for the crime of these alien lynchers!

Is that the equal protection of the laws? Is that a power delegated to the United States by the Constitution? The county has done no wrong, and yet it is punished just as if it had done wrong.

Furthermore, Mr. President, this section of the bill is absolutely in the teeth of section 2 of article III of the Constitution. That section provides for the settlement of a controversy between the United States and a State. Section 2 provides that the judicial power of the United States—

Shall extend * * * to controversies to which the United States shall be a party; to controversies between two or more States; between a State and citizens of another State; between citizens of different States. * * *

In all cases * * * in which a State shall be party, the Supreme Court shall have original jurisdiction.

So, under the very terms of the Constitution, where a State or any of its subdivisions or any of its counties or municipalities or other part of the State is sued, necessarily that suit must be brought in the Supreme Court of the United States, and this section does not so provide.

Mr. President, what is the need of such a law? I have already shown that there has been a steady decrease in the crime of lynching. In 1935, as I said before, 20 persons were lynched in the United States—2 whites and 18 Negroes. Nine persons—all Negroes—were lynched in 1936. Eight persons—all Negroes—were lynched in 1937. A reduction in the number of lynchings from 231 in 1892 down to 8 in 1937 is a remarkable record, and I sincerely hope there will not be a single lynching this year. But, Senators, if we pass this bill, it will be regarded by many Negroes—ignorant, of course—as a license to commit crime. They will think, after its passage, that the Federal Government will see that they are not lynched, and the crime for which lynching is principally inflicted will increase, and perhaps lynchings also will increase. Why not let well enough alone? Why not leave the matter to the States, which have made such wonderful strides in eradicating this crime?

The Negroes, too, are making a better record. The crimes for which lynchings occur in most cases are being decreased. You gentlemen may not know it, but you are playing with fire. If you let the country generally know that the Federal Government is taking steps in this matter by the passage of a bill of this kind, you will find that ignorant Negroes, learning about it, will be more and more inclined to commit the crime which in most cases causes lynching. The policy of your bill is bad, and in my judgment the purpose of it is purely political. If left alone, there would not be a half dozen Senators in this body who would be really interested in the passage of this bill. The first day the bill was up for consideration by the Senate there were not three Senators on the floor who were really interested in it, and there were not enough Senators present to constitute a quorum until roll call after roll call. I am referring to yesterday, and the attendance today is not much greater.

Senators know the bill is not a proper measure. They know the policy underlying it is not a good one. They are just being bludgeoned into passing it. The whites and Negroes, for the most part, are getting along splendidly. Why disturb that situation? Hundreds of murderers go unpunished every year in the United States, and no bills have been introduced to have the Federal Government take over supervision of such crimes, but because eight people were lynched last year it is proposed to do away with the Constitution and do away with the good feeling now existing between the races. To enact such a law would be doing the Negroes a great injustice, and would be doing the whites a great injustice. It would be doing the white women a great injustice.

Mr. President, if I may be pardoned for referring again to the celebrated controversy in 1922, I recall that one of the leading advocates of the Dyer lynching bill—and the bill before us is practically the same measure—was the then Senator Edge, of New Jersey, and while he was pulling the motes out of the eyes of the Southern States, in his own State there was an open season, apparently, on preachers. My recollection is that I read—and I think I have the clippings yet—that several preachers, perhaps seven, were murdered in the Senator's own State in that particular year. Was anyone ever punished for those crimes? One of them was a celebrated case, and all will recall it when I mention the facts. It was a case of a preacher being murdered for being very friendly with a choir singer. Everybody knew who murdered him, the authorities all knew, but the lady implicated in the case was not punished. We all know that in our States there are other crimes besides lynching the perpetrators of which are not punished. If there is a desire to enforce the law, if there is a wish that the Federal Government take over the enforcement of all State laws, why not do it boldly, and take over the enforcement of every State law? The States are enforcing the law against lynching. Laws against lynching are the best enforced of all laws, by common consent. I challenged any Senator on the floor today to mention any other crime the perpetrators of which were being more generally punished, and no Senator could name one such crime. Lynchings have fallen from 231, in 1892, to 8, in 1937. Why single out this one crime in order to rape the States of their authority?

Mr. President, that is not the worst effect the enactment of this measure would have. The relations between the white people and the colored people in my State are exceedingly pleasant. The colored people in Tennessee, and I think the same situation prevails in the surrounding States, are daily improving. They are getting along well with their white neighbors; their property is increasing; they are progressing in education; they are making wonderful strides, and I feel proud of them. I am glad they are making such progress. They are making strides such as no colored people on the face of God's globe ever made before. Why disturb that condition? Why enact a law the necessary effect of which would be to disturb that situation? Why enact a law unless there is some real reason for so doing? To my mind it would be utterly idle to enact the measure before us, and it is idle to devote the time of the Senate to considering it.

I wish to call attention to some of the things the Negroes have done. Their progress since the Civil War has been remarkable. When that war ended the Negroes owned practically nothing. Today they own probably \$3,000,000,000 worth of property. They own more than 25,000,000 acres of land today, and their land holdings amount to over 35,000 square miles of territory, which is more territory than there is in all New England.

Colored people operate over a million farms. They have over 70,000 businesses. Over two and a half million colored children are in school, and the schools are furnished substantially by the white people of the country. They are built from taxes nine-tenths of which come from white people.

The property of the colored people for higher education is worth more than \$50,000,000. The expense of their education probably reaches \$75,000,000 annually, of which Negroes raise about \$4,000,000. They have over 50,000 churches and

over 5,000,000 communicants in those churches. They have more than 36,000 Sunday schools, and probably 2,500,000 of their children are pupils in Sunday school. The value of the church property is more than \$200,000,000. In 1866 only 10 percent of their children over 10 years of age could read or write, while now over 80 percent can read or write. That is a story of progress more remarkable than that of any other race of people. Why is there a desire to change that? Why enact a law the inevitable effect of which would be to disturb the conditions under which the colored people are progressing? No one can give a good reason for such action. There is no good answer to the question. The colored people are doing splendidly in Memphis, in Tennessee, as a whole, and in the South generally.

Many Senators will vote for the bill who perhaps never have been associated with Negroes and do not know anything about their problems, except, perhaps, how individual Negroes in their particular States, or a few of them, affect the Senators. Yet, without looking at the bill, without reading the bill, Senators will undertake to pass it.

Mr. President, those who are the so-called friends of the colored people think they are doing them a favor in passing this bill, but let me tell them something more about the problem. I refer now to a Federal census. I have spoken of the property the Negroes own, about their schools and their colleges and various other things touching their welfare. From the Federal Census of Negroes in the United States, 1920-22, page 324, I find that there are in the United States among Negroes the following:

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|---|--------|
| Actors | 2,626 |
| Showmen | 1,504 |
| Architects | 63 |
| Artists, sculptors, and teachers of art | 430 |
| Authors, editors, and reporters | 425 |
| Chemists, assayers, and metallurgists | 361 |
| Clergymen | 25,034 |
| College presidents and professors | 2,146 |
| Dentists | 1,773 |
| Designers, draftsmen, and inventors | 217 |
| Lawyers, judges, and justices | 1,247 |
| Musicians and teachers of music | 10,583 |
| Osteopaths | 19 |
| Photographers | 545 |
| Physicians and surgeons | 3,885 |
| Teachers | 54,683 |
| Technical engineers | 351 |
| Civil engineers and surveyors | 160 |
| Electrical engineers | 119 |
| Mechanical engineers | 70 |
| Mining engineers | 2 |
| Trained nurses | 5,728 |
| Veterinary surgeons | 134 |
| Other professional pursuits | 1,810 |
| County agents, farm demonstrators, etc. | 226 |
| Librarians | 210 |
| Social and welfare workers | 1,038 |
| Semiprofessional and recreational pursuits | 6,343 |
| Abstractors, notaries, and justices of the peace | 57 |
| Architects' apprentices | 6 |
| Ballroom, dance-hall, and skating-rink keepers | 1,935 |
| Chiropractors | 184 |
| Moving pictures | 5 |
| Healers not elsewhere classified | 901 |
| Keepers of charitable and penal institutions | 201 |
| Keepers of pleasure resorts, race tracks, etc. | 109 |
| Officials of lodges and societies | 451 |
| Radio announcers | 4 |
| Religious workers | 1,196 |
| Technicians and laboratory assistants | 196 |
| Theater owners, managers, and officials | 166 |
| Attendants to professional men | 16,098 |
| Attendants in poolrooms, bowling alleys, and golf courses | 2,420 |
| Dentists' assistants | 270 |
| Helpers, motion pictures | 14 |
| Officials and inspectors of States and United States | 203 |
| Policemen | 1,297 |
| Soldiers, sailors, and marines | 4,601 |
| In other public-service pursuits | 1,769 |

Senators, that is one of the most remarkable records that the black race has ever made anywhere on the face of the earth. Why do Senators want to break up this steady march of progress? Why do Senators want to change that situation? In 1866 these people started from scratch. They were without funds. They were ex-slaves. Yet in the time that has elapsed since 1866 they have made such progress as

is indicated by what I have just read. At the behest of somebody, I do not know whom; at the behest of some interest, I do not know what; because of some suggestion, I do not know where it comes from, the proponents of the bill are doing everything they can to destroy what these good people are doing. Why do the proponents of the measure want to interfere with the improvement of the Negroes in education, their improvement in the artistic world, their improvement in the arts and sciences and in the professions? It ought not to be done, Senators.

Mr. COPELAND. Mr. President, will the Senator yield?

Mr. McKELLAR. I yield.

Mr. COPELAND. I am not sure whether or not the Senator mentioned dentists.

Mr. McKELLAR. Yes; I mentioned dentists.

Mr. COPELAND. I have had contacts with literally hundreds of professional men and women of the colored race.

Mr. McKELLAR. There are 1,773 Negro dentists in this country.

Mr. COPELAND. Yes. I want to speak of the dentists particularly.

Mr. McKELLAR. I yield to the Senator from New York for that purpose.

Mr. COPELAND. They have a very conspicuous record in dental surgery. I have come in contact with them in the medical profession, in the nursing profession, as laboratory technicians, and in many branches of scientific work. I endorse all that the Senator has said about them. We have a very large colored population in my city and in my State, and I have found these persons possessing all the fine qualities spoken of by the Senator from Tennessee. I am glad he has brought to the attention of the public the capabilities of this race in the many activities of human life.

Mr. McKELLAR. I thank the Senator from New York. I wish to say as a southern man, as the son of parents who owned Negroes, that I feel proud of the progress of the Negroes in this world. I think they have done well. I feel in my heart naught except friendship for them. I do not think they ought to be exploited for political purposes. I do not think the present status ought to be interfered with. I do not believe we should sit here and vote for laws that will not have the effect Senators expect them to have.

I speak with some degree of knowledge of this matter. As I said in the very beginning, I have lived in the same community with Negroes all my life. I have never had a difference, that I know of, with any Negro. I have never had an unkind thought about them. All my thoughts about them are to aid them and to help them in their improvement in this world. I want to see them improve. I want to see them go forward. They are going forward, and I feel kindly toward them. But why interfere with the progress they are making by introducing this legislation at this late hour, when lynchings have gone down from 231 annually to 8 annually? Why, at this late hour, should the proponents of the measure undertake to bring up this question?

Mr. SCHWELLENBACH. Mr. President, will the Senator yield?

Mr. McKELLAR. I yield.

Mr. SCHWELLENBACH. I am fully appreciative of the very fine attitude which the Senator has toward the Negroes of the South and of his State. I do not mean to convey any other implication in my question. However, a few minutes ago the Senator said that the enactment of this bill would detract from the education of Negroes, and would tend to stop their advancement in the arts and the sciences. I just do not see how that can be.

Mr. McKELLAR. I did not say it in that way, Mr. President. I said that under the conditions as they now exist, when we have enforcement of State law, and enjoy local self-government, the colored people have made wonderful strides. We have now had 72 years of experience under the present laws. At one time there were nearly as many as 200 colored persons lynched in 1 year, which was horrible, which no man can defend and no man would attempt to defend. Now, when we have nearly blotted out lynching, and both

white people and black people are opposed to it, at this late date, when only eight lynchings occurred last year, why should we undertake to stir up the race question again in this country? I do not want it done. I want to get along with the colored citizens of this country in peace and harmony. I want them to go on and prosper. I would not take from them any right at all. I want to say to Senators, knowing the situation as I do, that if they pass this bill and put it on the statute books, so long as it is on the statute books—I do not think it will stay there long, even if it is passed—but so long as it is on the statute books the ignorant members of that race will be led to believe that they have a right to commit crimes which they should not commit, and which will undoubtedly bring about more lynchings.

Mr. SCHWELLENBACH. Mr. President, will the Senator again yield?

Mr. McKELLAR. I yield.

Mr. SCHWELLENBACH. What is there in this bill which would lead to the conclusion the Senator stated a few moments ago, that it might have some effect so far as advancement in the arts and sciences by the Negro race was concerned?

Mr. McKELLAR. They will believe that the Federal Government is now taking charge of punishment for lynchings and that there will be no more lynchings; and the ignorant among them, the uninformed among them—and there are still many of them who are ignorant and uninformed—the uneducated ones, for the most part, and even some of those who are educated, will, in some cases, commit crimes which they would not commit unless they thought the Federal Government was going to protect them somehow under this measure.

Mr. SCHWELLENBACH. Mr. President, I repeat my question. Certainly those who have had advancement in the arts and sciences are not those who are ignorant.

Mr. McKELLAR. No; I am not counting those. I am counting the ignorant among them and the criminal among them, because there are some among them who are ignorant and who are criminal.

Mr. SCHWELLENBACH. The Senator has not answered the question I wished him to answer. The Senator said he believed the passage of this legislation would retard the advancement of the Negroes in the arts and in the sciences.

Mr. McKELLAR. The stirring up of race hatreds, of prejudices, of differences, all that is bound to retard the advancement of the Negroes. There is no other answer to it. The Senator probably has not lived in a mixed-race community, and he does not know about it. If he had lived in Memphis for 6 months, he would know that what I say is absolutely true.

Mr. COPELAND. Mr. President, will the Senator yield?

Mr. McKELLAR. I yield.

Mr. COPELAND. The Senator is a great lawyer and a great legislator. The implication of what he has said carries to me the idea that he thinks the passage of law promotes crime. I cannot understand that.

Mr. McKELLAR. Will the Senator permit me to interrupt him at that point?

Mr. COPELAND. Yes.

Mr. McKELLAR. I learned that in part from the Senator from New York. I have voted for prohibition in this body time and again, and I have heard the Senator from New York say a thousand times on this floor that the enactment of the prohibition bill had infinitely increased crime in this country.

Mr. COPELAND. I think the Senator from Tennessee is right in his criticism.

Mr. McKELLAR. Yes; I am right, because I heard the Senator from New York say it a thousand times, and that is what I am saying about this bill. I am right again.

Mr. COPELAND. I did say that about prohibition, and I think the rebuke the Senator has given me is a very just one. I did think, and I still think, that that particular law promoted crime; but I can hardly think of the prohibition law as parallel with this law. I also want to resist at once

the thought which may be in the Senator's mind that any man favoring this bill seeks to reflect at all upon fine characters such as the Senator from Tennessee.

Mr. McKELLAR. Oh, I know there is no such thought. I do not charge the Senator with that.

Mr. COPELAND. There can be no doubt that the Senator from Tennessee and others opposing this bill are just as sincere in every sense as those who are proposing the bill. My observation has been, however, that in my own community—and I live in a community having perhaps the largest colored population of any city in the world—the fine persons represented by the long list mentioned by the Senator are shocked and humiliated by what they feel to be an attack upon their race. To my mind, the strongest argument the Senator could make would be along the line of the invasion of the rights of the State and the obligations of the State. I should feel about the people of any other race and any other color exactly as I do about the people of this particular race and this particular color.

Mr. McKELLAR. Mr. President, I wonder if the Senator does feel that way. For instance, in 1934, according to the Negro Year Book of that year, there were 15 lynchings of colored people; 8 of the 15 were due to the crime of rape. Has not the Senator some little feeling in his kindly heart—I know it is kindly, because I have seen its workings exhibited many times—for the eight females who were raped in those cases? Has not the question two sides? Will not the Senator admit that, while he has the kindest feeling for the colored race, he also has some little sympathy for the eight poor, helpless, defenseless white females who were injured in connection with those crimes?

Mr. COPELAND. Mr. President, I should not care what the color or race of the violator of the law might be; if there is proof in any case that a colored man or a white man or a yellow man has committed that terrible crime I should be in favor of dealing with him to the extreme limit of the law. I want it done under the law, however.

Mr. McKELLAR. I agree with the Senator entirely.

Mr. COPELAND. I do not want to have that man, whether he is white or black, taken out to be hanged to a telephone pole or to have the bottom of his feet burned. I want him dealt with in accordance with the humane laws of all the States of the Union. If that had been the experience of the past, this bill would never be here. I do not pretend for a moment to say that I live in a State which is pure and that indecencies do not occur in it; but whether violation of law occurs in my State, or the State of Tennessee, or any other State, I want the violator of the law to be dealt with vigorously and speedily in accordance with the law.

Mr. McKELLAR. Mr. President, let me ask the Senator a question. Does he not feel exactly the same way about the commission of the crime of rape? Why not include the crime of rape as well as the crime of lynching? Here is an Associated Press dispatch of January 6 from Marion, Ark., which is right across the river from Memphis—I do not believe the Senator from New York was here at the time I read it before, and I call his attention to it again—stating that two young colored men from Memphis went over into the swamps of Arkansas and found on the road a young white girl and raped her. Has not the Senator a little sympathy for the victim of that kind of a crime? Why not put that sort of a crime in this bill? Does not the Senator believe in punishing under the law the crime of rape?

Mr. COPELAND. I certainly do, whether the sinner is white or black; and I can think of no more terrible crime.

Mr. McKELLAR. I am glad to hear the Senator say that.

Mr. COPELAND. I have in my heart the feeling that we do not deal very wisely with our youth. A great many young children, young boys and girls, grow to manhood and womanhood who are without character, and in whose behalf no effort has been made on the part of the public authorities to see that they are led by the hand into decent, moral ways of living.

If the Senator will bear with me, there is a great moral obligation resting upon the American people; and, to my

mind, the public schools, both North and South, must be used with the thought of the development of character more than of scholarship.

So I do not see that the case mentioned by the Senator from Tennessee has any particular bearing upon the argument. We want to prevent lynching and every other illegal act in cases in which individuals assume the authority of the law. I do not care whether the illegal act relates to lynching, or rape, or what it may be. We have orderly government in America, and we expect the Government to deal with such cases. We expect the Government to be preserved and to be protected, and to be so molded that it can deal with these great problems; and I think we are failing in many directions.

Mr. McKELLAR. Before I go further, let me say to the Senator from New York that according to the records of the Senator's own State, while I have not the exact number, there were in his State many more racketeer or gangster killings last year that have not been punished than there were lynchings throughout the whole country. Does not the Senator think gangster and racketeer killings ought to be included in this bill if the States fail to punish them?

Mr. COPELAND. If the Senator will recall, I have been and am chairman of the Committee on Crime; and, if the Senator will remember, I brought forward from my committee many bills dealing with the racketeer and the kidnaper.

Mr. McKELLAR. But the enactment of those bills has not prevented those crimes.

Mr. COPELAND. I think I may say I am the father of the law which gives rise to a presumption of interstate crime if a period of 6 days elapses after the disappearance of an individual. I then favored an increase in the power of the Federal Government to deal with these offenders. I feel just exactly as unkindly toward the racketeer and the kidnaper and the gambler—

Mr. McKELLAR. And the rapist.

Mr. COPELAND. And the rapist, and all other criminals. I do not care whether they live in the State of New York, in the county of Rockland, or in the State of Tennessee; I want them vigorously dealt with. If that can be better done, to the protection of society, by the enactment of Federal laws, I am willing to go far in that direction; and I confess that the only doubt I have about the propriety of enacting this bill is the question of the invasion of the right and duty of the State. That is where my problem lies. It does not deal at all with what we should do with the rapist. It does not deal at all with what should be done with the criminal of any other type. Any man who is a menace to society should be dealt with by some branch of our law in order that society may be protected.

I will go as far as the Senator from Tennessee will go, and I think perhaps a little bit further, because I have already said that I brought to the Senate and am glad to have had enacted into law various Federal statutes which have to do with racketeers and kidnapers. I have no brief for them. I wish they might all be boiled in oil tomorrow morning, if that could be done by legal enactment.

Mr. McKELLAR. Then, as I understand the Senator, if an amendment is offered to include in the bill racketeers and gangsters and rapists, the Senator will vote for it.

Mr. COPELAND. I shall be very much inclined to do so.

Mr. McKELLAR. I just wanted to ascertain the position of the Senator.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. McKELLAR. I yield.

Mr. BARKLEY. I understand that the Senator from Tennessee will not be able to finish his remarks tonight.

Mr. McKELLAR. Not tonight.

Mr. BARKLEY. Therefore we might as well suspend at this time.

Mr. HARRISON. Mr. President, I understand that the Senator from Kentucky is about to move a recess until tomorrow.

Mr. BARKLEY. Yes, Mr. President.

Mr. HARRISON. Is there to be an all-day session tomorrow?

Mr. BARKLEY. The plan is to meet at 11 o'clock and adjourn earlier than we adjourn on other days.

Mr. HARRISON. I give notice that on Monday next, at the convening of the Senate, I shall address myself to this bill, not with the idea of delaying or filibustering in any way but of discussing it on the facts.

Mr. CONNALLY. Mr. President, will the Senator from Kentucky yield to me?

Mr. BARKLEY. I yield.

Mr. CONNALLY. I had understood that the Senator from Kentucky had heretofore advised a number of Senators that there would be no session tomorrow. I was hopeful that that was the case. A great many Senators wish to be out of the city, and I doubt very much if the Senator will make a great deal of progress by having a session on Saturday.

Mr. BARKLEY. I will say to the Senator from Texas that on yesterday I was asked whether or not we would have a session tomorrow, and in practically every case I said yesterday that I did not know; but after conferring with numerous Senators on both sides it seems to be the desire that we have a session tomorrow, beginning earlier and adjourning earlier than usual. It is true that a number of Senators are absent because they have gone away to attend Jackson Day banquets, and no criticism can be directed toward them for their absence on that account. In all probability there will be no vote tomorrow on anything in connection with the bill, and it has occurred to me and to other Members of the Senate that we ought to spend the day in part, at least, in debating this measure. For that reason I contemplate moving that the Senate take a recess until 11 o'clock tomorrow morning.

Mr. CONNALLY. Let me say to the Senator that no personal consideration moves the Senator from Texas, because he expects to be here tomorrow.

Mr. BARKLEY. I appreciate that.

Mr. CONNALLY. My suggestion was on behalf of Senators who would be inconvenienced by a session tomorrow.

Mr. BARKLEY. I really do not think any Senator will be inconvenienced by a session tomorrow, because in all likelihood those who are away will not miss any vote; and it seems to me those who are in the city, constituting more than a quorum, can come here for a while tomorrow and work on this measure.

INTERNATIONAL SEED TESTING ASSOCIATION CONGRESS

The PRESIDING OFFICER laid before the Senate a message from the President of the United States, which was read, and, with the accompanying paper, referred to the Committee on Foreign Relations, as follows:

To the Congress of the United States of America:

I commend to the favorable consideration of the Congress the enclosed report from the Secretary of State to the end that legislation may be enacted authorizing and requesting the President of the United States to invite the International Seed Testing Association to hold its ninth congress in the United States in 1940 and to invite foreign countries to participate in that congress; and also to provide an appropriation of \$500, or so much thereof as may be necessary, for the expenses of official entertainment by the United States at the Ninth International Seed Testing Congress.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, January 7, 1938.

[Enclosure: Report.]

EXECUTIVE REPORTS OF COMMITTEES

As in executive session,

Mr. McKELLAR, from the Committee on Appropriations, reported favorably the nomination of Will G. Metz, of Wyoming, to be State administrator in the Works Progress Administration for Wyoming.

He also, from the Committee on Post Offices and Post Roads, reported favorably the nominations of several postmasters.

The PRESIDING OFFICER. The reports will be placed on the Executive Calendar.

EXECUTIVE MESSAGES REFERRED

The PRESIDING OFFICER (Mr. NEELY in the chair), as in executive session, laid before the Senate messages from the President of the United States submitting several nominations, a treaty, and a convention, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

RECESS

Mr. BARKLEY. I move that the Senate take a recess until 11 o'clock tomorrow morning.

The motion was agreed to; and (at 5 o'clock and 10 minutes p. m.) the Senate took a recess until tomorrow, Saturday, January 8, 1938, at 11 o'clock a. m.

NOMINATIONS

Executive nominations received by the Senate January 7 (legislative day of January 5), 1938

AMBASSADORS EXTRAORDINARY AND PLENIPOTENTIARY

Hugh R. Wilson, of Illinois, now an Assistant Secretary of State, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Germany, vice William E. Dodd.

Joseph P. Kennedy, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Great Britain, vice Robert Worth Bingham, deceased.

ENVOY EXTRAORDINARY AND MINISTER PLENIPOTENTIARY

Norman Armour, of New Jersey, now Envoy Extraordinary and Minister Plenipotentiary to Canada, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Chile, vice Hoffman Philip, retired.

NATIONAL MEDIATION BOARD

George A. Cook, of Illinois, to be a member of the National Mediation Board for the remainder of the term expiring February 1, 1939, vice James W. Carmalt, deceased.

HOUSE OF REPRESENTATIVES

FRIDAY, JANUARY 7, 1938

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Thou who art the light of the world, light for the morning, light for the noonday, and light for the eveningtide, help us to fasten our trust on truths which will bring ever-brightening triumphs. We pray Thee that we may have that vision of God which no man or nation can leave out. The whole universe is a temple of Jehovah; it throbs with the infinite presence of the Most High. May we see His hand of salvation and hear His voice proclaiming that justice, good will, and the rule of Jesus are the hope of the world. Almighty God, make us unafraid and fearless in the presence of criticism and opposition. Grant, our Father, that the present-day problems may challenge the resources of our Christian faith and courage. Instead of the thorn shall come the fir tree, and instead of the brier shall come up the myrtle tree; and it shall be unto the Lord for a name, for an everlasting sign that shall not be cut off. In the name of our Savior. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Latta, one of his secretaries.

RULES OF CIVIL PROCEDURE, UNITED STATES DISTRICT COURTS

Mr. LAMBETH. Mr. Speaker, from the Committee on Printing I report back favorably (H. Rept. No. 1663) a resolution and ask for its immediate consideration.

The Clerk read as follows:

House Resolution 395

Resolved, That 9,000 additional copies of House Document 460, current session, entitled "A letter from the Attorney General of the United States transmitting the Rules of Civil Procedure for the District Courts of the United States," be printed for the use of the House document room.

Mr. COCHRAN. Mr. Speaker, will the gentleman yield for a question?

Mr. LAMBETH. I yield.

Mr. COCHRAN. Does not the gentleman feel that it would be fairer to the Members of the House if the distribution were through the folding room instead of the House document room? This is a very, very important document. I think it would be more fair if the resolution provided for the distribution of the documents through the folding room; then we would all get our fair share. I have had four telegrams this morning asking me for copies of this document.

Mr. LAMBETH. Replying to the gentleman from Missouri I may say that if this quantity, which is the amount requested by the chairman of the Committee on the Judiciary, should not be sufficient, there will be a reprint. Replying further to the gentleman I may say that it has been the experience of our committee in relation to the distribution of documents that when the distribution is through the folding room with equal quantities allotted to each Member, there is always an unused surplus piled up. That is the reason for having the distribution through the document room. I can assure the gentleman that if this quantity should not prove adequate, additional copies will be made available.

Mr. COCHRAN. That will be satisfactory to me.

The SPEAKER. The question is on the resolution offered by the gentleman from North Carolina.

The resolution was agreed to.

ELECTION TO COMMITTEES

Mr. DOUGHTON. Mr. Speaker, I offer a privileged resolution, which I send to the Clerk's desk.

The Clerk read as follows:

House Resolution 396

Resolved, That the following-named Members be, and they are hereby, elected members of the standing committees of the House of Representatives, as follows:

Naval Affairs: WILLIAM S. JACOBSEN, Iowa.
Public Lands: GOMER SMITH, Oklahoma.
Patents: CHARLES L. SOUTH, Texas; CHARLES A. BUCKLEY, New York.
Revision of the Laws: GOMER SMITH, Oklahoma.
World War Veterans' Legislation: THOMAS A. FLAHERTY, Massachusetts.
Expenditures in the Executive Departments: THOMAS A. FLAHERTY, Massachusetts.
Roads: BEVERLY M. VINCENT, Kentucky.

The resolution was agreed to.

ANNIVERSARY OF THE BATTLE OF NEW ORLEANS

Mr. FERNANDEZ. Mr. Speaker, tomorrow being the one hundred and twenty-third anniversary of the Battle of New Orleans, I ask unanimous consent to extend my remarks at this point in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. FERNANDEZ. Mr. Speaker, January 8 marks the one hundred and twenty-third year since the great Battle of New Orleans. Because of its importance to the welfare of our Nation, I offer an appropriate treatise in commemoration of the Nation's second greatest battle, which ended the War of 1812.

After its unsuccessful attack on Fort McHenry, Baltimore, during the War of 1812—the attack which inspired Francis Scott Key to write The Star-Spangled Banner—the British Fleet, consisting of some sixty-odd great ships, transported the British Army down Chesapeake Bay, and approximately